

C.J.I.S. POLICY COUNCIL ACT (EXCERPT)
Act 163 of 1974

28.214 Council; powers and duties; fingerprints; disclosure of information; violation; penalty.

Sec. 4. (1) The council shall do all of the following:

(a) Establish policy and promulgate rules governing access, use, and disclosure of information in criminal justice information systems, including the law enforcement information network, the automated fingerprint information system, and other information systems related to criminal justice or law enforcement. The policy and rules shall do all of the following:

(i) Ensure access to information obtained by a federal, state, or local governmental agency to administer criminal justice or enforce any law.

(ii) Ensure access to information provided by the law enforcement information network or the automated fingerprint identification system by a governmental agency engaged in the enforcement of child support laws, child protection laws, or vulnerable adult protection laws.

(iii) Authorize a fire chief of an organized fire department or his or her designee to request and receive information obtained through the law enforcement information network by a law enforcement agency for the following purposes:

(A) A preemployment criminal convictions history.

(B) A preemployment driving record.

(C) Vehicle registration information for vehicles involved in a fire or hazardous materials incident.

(iv) Authorize a public or private school superintendent, principal, or assistant principal to receive vehicle registration information, of a vehicle within 1,000 feet of school property, obtained through the law enforcement information network by a law enforcement agency.

(v) Establish fees for access, use, or dissemination of information from criminal justice information systems.

(b) Review applications for C.J.I.S. access and approve or disapprove the applications and the sites. If an application is disapproved, the applicant shall be notified in writing of the reasons for disapproval.

(c) Establish minimum standards for equipment and software and its installation.

(d) Advise the governor on issues concerning the criminal justice information systems.

(2) A person having direct access to nonpublic information in the information systems governed by this act shall submit a set of fingerprints for comparison with state and federal criminal history records to be approved for access pursuant to the C.J.I.S. security policy. A report of the comparison shall be provided to that person's employer.

(3) A person shall not access, use, or disclose nonpublic information governed under this act for personal use or gain.

(4) The attorney general or his or her designee, a prosecuting attorney, or the court, in a criminal case, may disclose to the defendant or the defendant's attorney of record information pertaining to that defendant that was obtained from the law enforcement information system.

(5) A person shall not disclose information governed under this act in a manner that is not authorized by law or rule.

(6) A person who intentionally violates subsection (3) or (5) is guilty of a crime as follows:

(a) For a first offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(b) For a second or subsequent offense, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

History: 1974, Act 163, Eff. Apr. 1, 1975;—Am. 1998, Act 82, Eff. July 1, 1998;—Am. 1998, Act 458, Imd. Eff. Jan. 4, 1999;—Am. 1998, Act 459, Imd. Eff. Jan. 4, 1999;—Am. 2000, Act 320, Imd. Eff. Oct. 25, 2000;—Am. 2005, Act 308, Eff. Feb. 1, 2006;—Am. 2005, Act 311, Eff. Feb. 1, 2006.

Administrative rules: R 28.5101 et seq. of the Michigan Administrative Code.

STATE EMPLOYEES' RETIREMENT ACT (EXCERPT)
Act 240 of 1943

38.40 Allowances, benefits, and other rights; exemption from taxation; subject to public employee retirement benefit protection law.

Sec. 40. The right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this act, the various funds created by this act, and all money and investments and income of the funds, are exempt from any state, county, municipal, or

other local tax. The right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this act, the various funds created by this act, and all money and investments and income of the funds is subject to the public employee retirement benefit protection act.

History: 1943, Act 240, Eff. July 30, 1943;—CL 1948, 38.40;—Am. 1985, Act 35, Imd. Eff. June 13, 1985;—Am. 1991, Act 48, Imd. Eff. June 27, 1991;—Am. 2002, Act 99, Imd. Eff. Mar. 27, 2002.

STATE EMPLOYEES' RETIREMENT ACT (EXCERPT)

Act 240 of 1943

38.69 Exemptions from taxation; subject to public employee retirement benefit protection law; right of setoff to recover overpayments; satisfaction of claims arising from embezzlement or fraud; correction of errors in records and actions.

Sec. 69. (1) Distributions from employer contributions made pursuant to section 63(2) and (3) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 63(3) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax. Distributions from employer contributions made pursuant to section 63(2) and (3) and earnings on those employer contributions and distributions from employee contributions made pursuant to section 63(3) and earnings on those employee contributions are subject to the public employee retirement benefit protection act.

(2) The state treasurer has the right of setoff to recover overpayments made under this act and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(3) The state treasurer shall correct errors in the records and actions in Tier 2 under this act, and shall seek to recover overpayments and shall make up underpayments.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997;—Am. 2002, Act 99, Imd. Eff. Mar. 27, 2002.

Compiler's note: Section 2 of Act 487 of 1996 provides:

"If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

FIRE FIGHTERS AND POLICE OFFICERS RETIREMENT ACT (EXCERPT)

Act 345 of 1937

38.559 Contributions of member; rate; deduction from salary; appropriations to maintain actuarially determined reserves; payment of deductions and appropriations into retirement system; prorating pensions and other benefits; expenses; pensions as obligations of retirement system.

Sec. 9. (1) The contributions of a member to the retirement system shall be 5% of the salary paid to the member by the municipality. The officer responsible for making up the payroll shall cause the contributions provided for in this subsection to be deducted from the salary of each member on each payroll for each payroll period so long as he or she remains an active member in the employ of the municipality. The amounts deducted shall be paid into the funds of the retirement system. The members' contributions provided for in this act shall be made notwithstanding that the minimum salary provided for by law is changed by the members' contributions. Every member shall be considered to consent and to agree to the deductions made and provided for in this act and shall receipt for his or her full salary and payment of his or her salary less the deduction, which is a full and complete discharge and acquittance of all claims and demands for the services rendered by the member during the period covered by the payment, except as to benefits provided by this retirement system.

(2) For the purpose of creating and maintaining a fund for the payment of the pensions and other benefits payable as provided in this act, the municipality, subject to the provisions of this act, shall appropriate, at the end of such regular intervals as may be adopted, quarterly, semiannually, or annually, an amount sufficient to maintain actuarially determined reserves covering pensions payable or that might be payable on account of service performed and to be performed by active members, and pensions being paid to retired members and beneficiaries. The appropriations to be made by the municipality in any fiscal year shall be sufficient to pay all pensions due and payable in that fiscal year to all retired members and beneficiaries. The amount of the appropriation in a fiscal year shall not be less than 10% of the aggregate pay received during that fiscal year by members of the retirement system unless, by actuarial determination, it is satisfactorily established that a lesser percentage is needed. All deductions and appropriations shall be payable to the treasurer of the municipality and he or she shall pay the deductions and appropriations into the retirement system. Except in

municipalities that are subject to the 15 mill tax limitation as provided by section 6 of article IX of the state constitution of 1963, the amount required by taxation to meet the appropriations to be made by municipalities under this act shall be in addition to any tax limitation imposed upon tax rates in those municipalities by charter provisions or by state law subject to section 25 of article IX of the state constitution of 1963.

(3) If, at the beginning or during any fiscal year, it has been satisfactorily determined by the retirement board that the accumulated funds of the retirement system plus the municipality's contribution of 10% of the aggregate pay received during that fiscal year by members of the retirement system plus members' contributions of 5% of payroll, are insufficient to pay all pensions and other benefits due and payable in that year out of funds of the retirement system, then all pensions and other benefits payable shall be prorated for the remainder of the fiscal year by the retirement board.

(4) Any clerical, legal, actuarial, or medical expenses required by the retirement board, or any other necessary expense for the operation of the retirement system, shall be provided for by the municipality or shall be paid from the investment income of the retirement system, as determined by the governing body of the municipality. The retirement board shall submit expenses periodically to the governing body of the municipality. If use of investment income to pay these expenses causes an actuarial insufficiency in the assets of the retirement system used to pay pensions, the insufficiency shall be made up by the municipality.

(5) All pensions allowed and payable to retired members and beneficiaries under this act shall become obligations of and be payable from the funds of the retirement system.

(6) The right of a person to a pension, to the return of member contributions, to any optional benefits, or any other right accrued or accruing to a member or beneficiary under this act and the money belonging to the retirement system is subject to the public employee retirement benefit protection act.

History: 1937, Act 345, Eff. Oct. 29, 1937;—Am. 1939, Act 210, Eff. Sept. 29, 1939;—Am. 1945, Act 256, Eff. Sept. 6, 1945;—Am. 1947, Act 229, Imd. Eff. June 17, 1947;—CL 1948, 38.559;—Am. 1951, Act 16, Imd. Eff. Mar. 30, 1951;—Am. 1985, Act 36, Imd. Eff. June 13, 1985;—Am. 1987, Act 145, Imd. Eff. Oct. 26, 1987;—Am. 1991, Act 54, Imd. Eff. June 27, 1991;—Am. 2002, Act 98, Imd. Eff. Mar. 27, 2002.

Popular name: Act 345

MICHIGAN LEGISLATIVE RETIREMENT SYSTEM ACT (EXCERPT)

Act 261 of 1957

38.1057 Retirement allowances, benefits, and credits not subject to taxation and public employee retirement benefit protection act.

Sec. 57. (1) All retirement allowances and other benefits payable under this act and all accumulated credits of members, deferred vested members, and retirants in this retirement system are not subject to taxation by this state or any political subdivisions of this state.

(2) All retirement allowances and other benefits payable under this act and all accumulated contributions of members, deferred vested members, and retirants in this retirement system are subject to the public employee retirement benefit protection act.

History: 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1961, Act 167, Eff. Sept. 8, 1961;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1985, Act 39, Imd. Eff. June 13, 1985;—Am. 1995, Act 258, Imd. Eff. Jan. 5, 1996;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

MICHIGAN LEGISLATIVE RETIREMENT SYSTEM ACT (EXCERPT)

Act 261 of 1957

38.1080 Distributions; exemption from tax; subject to public employee retirement benefit protection act; right of setoff to recover overpayment and satisfy claims; correction of errors in records and actions.

Sec. 80. (1) Distributions from employer contributions made pursuant to section 74(2) and (3) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 74(3) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax and are subject to the public employee retirement benefit protection act.

(2) The state treasurer has the right of setoff to recover overpayments made under this act and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(3) The state treasurer shall correct errors in the records and actions in Tier 2 under this act, and shall seek to recover overpayments and shall make up underpayments.

History: Add. 1996, Act 486, Eff. Mar. 31, 1997;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

Compiler's note: Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not
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affect the validity of the remaining sections of this act or the act in its entirety.”

THE PUBLIC SCHOOL EMPLOYEES RETIREMENT ACT OF 1979 (EXCERPT)

Act 300 of 1980

38.1346 Benefits; exemption from taxation; offset of retirement benefits or refunds; forfeiture of service credit.

Sec. 46. (1) A retirement allowance, an optional benefit, or any other benefit accrued or accruing to a person under this act, the reserves created by this act, and the money, investments, or income of those reserves are exempt from state, county, municipal, or other local tax and subject to the public employee retirement benefit protection act.

(2) The retirement system may offset retirement benefits or refunds payable under this act against amounts owed to the retirement system by a member, retirant, retirement allowance beneficiary, or refund beneficiary.

(3) If the retirement system is required by the federal government pursuant to a court order to transmit a part of a member's contributions standing to the member's credit in the reserve for employee contributions to a federal agency, the service credit that is covered by the payment shall be forfeited in the same manner as if the employee had requested and been paid a refund of the member's most recent contributions.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 40, Imd. Eff. June 13, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1991, Act 47, Imd. Eff. June 27, 1991;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002.

Popular name: Act 300

STATE POLICE RETIREMENT ACT OF 1986 (EXCERPT)

Act 182 of 1986

38.1643 Right of member, retirant, or beneficiary to retirement allowance or other benefit.

Sec. 43. The right of a member, retirant, or beneficiary to a retirement allowance, deferred retirement allowance, accumulated contributions, or other benefit under this act is subject to the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689.

History: 1986, Act 182, Eff. Oct. 1, 1986;—Am. 1991, Act 53, Imd. Eff. June 27, 1991;—Am. 2002, Act 96, Imd. Eff. Mar. 27, 2002;—Am. 2004, Act 50, Eff. Apr. 22, 2004.

ELIGIBLE DOMESTIC RELATIONS ORDER ACT (EXCERPT)

Act 46 of 1991

38.1702 Definitions.

Sec. 2. As used in this act:

(a) “Alternate payee” means a spouse of a participant under a judgment of separate maintenance, or a former spouse, child, or dependent of a participant, who is named in an eligible domestic relations order.

(b) “Benefit” means an annuity, a pension, a retirement allowance, or an optional benefit accrued or accruing to a participant under a retirement system or a postretirement subsidy payable to a participant under a retirement system.

(c) “Domestic relations order” means a judgment, decree, or order of a court made pursuant to the domestic relations law of this state and relating to the provision of alimony payments, child support, or marital property rights to a spouse of a participant under a judgment of separate maintenance, or to a former spouse, child, or dependent of a participant.

(d) “Earliest retirement date” means the earliest date on which a participant meets all of the requirements for retirement under a retirement system except for termination of employment.

(e) “Eligible domestic relations order” or “EDRO” means a domestic relations order that is considered an eligible domestic relations order under section 11 or that meets all of the following requirements:

(i) The domestic relations order states the name, last known address, and social security number of the participant.

(ii) The domestic relations order states the name, last known address, and social security number of the alternate payee.

(iii) The domestic relations order states the amount or percentage of the benefit to be paid to an alternate payee, or the manner under which the retirement system is to determine the amount or percentage of the benefit to be paid to an alternate payee.

(iv) The domestic relations order states that it applies to the retirement system and that the retirement system shall make payments to the alternate payee as required under the eligible domestic relations order and this act.

(v) The domestic relations order does not require the retirement system to provide a type or form of benefit not provided by the retirement system or a form of payment not provided by this act.

(vi) The domestic relations order does not require the retirement system to provide an increased benefit determined on the basis of actuarial value.

(vii) The domestic relations order does not require the payment of a benefit to an alternate payee that is required to be paid to another alternate payee under a previously filed eligible domestic relations order.

(viii) The domestic relations order is filed before the participant's retirement allowance effective date.

(f) "Participant" means a member, deferred member, vested former member, deceased former member, or retirant under the retirement system.

(g) "Postretirement subsidy" includes, but is not limited to, all of the following:

(i) A supplemental annuity.

(ii) A supplemental payment to a participant.

(iii) A percentage increase to a benefit payable to a participant.

(iv) Any other payment to a participant or increase to a benefit payable to a participant, excluding health benefits.

(h) "Retirement system" means a public employee retirement system created and established by this state or any political subdivision of this state.

History: 1991, Act 46, Imd. Eff. June 27, 1991.

THE JUDGES RETIREMENT ACT OF 1992 (EXCERPT)

Act 234 of 1992

38.2308 Offsetting benefits against amounts owed; forfeiture of service credit for transfer to federal agency; rights subject to public employee retirement benefit protection act.

Sec. 308. (1) The retirement system may offset retirement benefits or refunds payable under this act against amounts owed to the retirement system by a member, vested former member, retirant, retirement allowance beneficiary, or refund beneficiary.

(2) If the retirement system is required by the federal government pursuant to a court order to transmit a part of a member's accumulated contributions to a federal agency, the service credit that is covered by the payment shall be forfeited in the same manner as if the employee had requested and been paid a refund of the member's most recent contributions.

(3) The right of a person to a retirement allowance, to the return of accumulated contributions, to an optional benefit, to any other right accrued or accruing to a member or beneficiary under this act, and to the money belonging to the retirement system is subject to the public employee retirement benefit protection act.

History: 1992, Act 234, Eff. Mar. 31, 1993;—Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002.

THE JUDGES RETIREMENT ACT OF 1992 (EXCERPT)

Act 234 of 1992

38.2670 Distributions; exemption from tax; right of setoff to recover overpayments; satisfaction of claims arising from embezzlement or fraud; correction of errors.

Sec. 720. (1) Distributions from employer contributions made pursuant to section 714(2) and (3) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 714(3) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax.

(2) The state treasurer has the right of setoff to recover overpayments made under this act and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(3) The state treasurer shall correct errors in the records and actions in Tier 2 under this act, and shall seek to recover overpayments and shall make up underpayments.

History: Add. 1996, Act 523, Eff. Mar. 31, 1997;—Am. 2002, Act 95, Imd. Eff. Mar. 27, 2002.

CITY INCOME TAX ACT (EXCERPT)

Act 284 of 1964

141.634 Deductible expenses; alimony, separate maintenance payments and principal sums payable in installments, moving expenses, and payments to retirement plan or account.

Sec. 34. The following expenses paid or incurred by an individual may be deducted from gross income in determining income subject to tax to the extent the expenses are applicable to income taxable under this ordinance:

(a) An individual may deduct alimony, separate maintenance payments and principal sums payable in installments, to the extent includable in the spouse's adjusted gross income under the federal internal revenue

code but only to the extent deductible by the individual under the federal internal revenue code. A nonresident individual may deduct only that proportion of his alimony, separate maintenance or principal sums payable in installments that his income taxable under this ordinance bears to his total federal adjusted gross income.

(b) An employee or self-employed individual may deduct moving expenses to the extent provided in section 217 of the federal internal revenue code.

(c) A self-employed individual may deduct payments to a qualified retirement plan to the extent provided in section 404 of the federal internal revenue code.

(d) An individual may deduct payments to an individual retirement account established pursuant to the employee retirement income security act of 1974, 29 U.S.C. 1001 to 1381, to the extent provided in section 219 of the internal revenue code.

History: Add. 1971, Act 169, Imd. Eff. Dec. 2, 1971;—Am. 1978, Act 197, Imd. Eff. June 4, 1978.

REVENUE DIVISION OF DEPARTMENT OF TREASURY (EXCERPT)
Act 122 of 1941

205.30a Application of refund to liabilities of taxpayer; notice; nonobligated spouse allocation form; false statement; penalty; failure to file form; rules; definitions.

Sec. 30a. (1) If a taxpayer claims a refund that the department determines is valid as provided in section 30(2), and the department identifies a liability of the taxpayer described in subsection (2), the department shall first apply the amount of the refund as provided in subsections (2) and (3), and the excess, if any, shall be refunded or credited as provided in section 30.

(2) The amount of a refund described in subsection (1) shall be applied to the following in the order of priority stated:

(a) Any other known tax liability of the taxpayer to this state.

(b) Any other known liability of the taxpayer to this state, including a liability to pay support if the right to receive the support has been assigned to the state and the liability is the basis of a request for tax refund offset from the office of child support.

(c) Any of the following in the order of priority received, unless otherwise provided by law:

(i) A support liability of the taxpayer that is the basis of a request for tax refund offset from the office of child support, other than as provided by subdivision (b).

(ii) A writ of garnishment or other valid court order issued by a court of competent jurisdiction and directed to this state or the state treasurer to satisfy a liability of the taxpayer.

(iii) A levy of the internal revenue service to satisfy a liability of the taxpayer.

(iv) A liability to repay benefits obtained under the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, being sections 421.1 to 421.75 of the Michigan Compiled Laws, to which the taxpayer was not entitled, upon a request for tax refund offset from the Michigan employment security commission.

(3) If the claim for refund is reflected on a joint tax return, the department shall allocate to each joint taxpayer his or her share of the refund. The amount allocated to each taxpayer shall be applied to his or her respective liabilities in the order of priority stated in subsection (2).

(4) If the department determines that all or a portion of a refund claimed on a joint tax return is subject to application to a liability of an obligated spouse, the department shall notify the joint taxpayers by first class mail sent to the address shown on the joint return. The notice shall be accompanied by a nonobligated spouse allocation form. The notice shall state all of the following:

(a) That all or a portion of the refund claimed by the joint taxpayers is subject to interception to satisfy a liability or liabilities of 1 or both spouses.

(b) The nature of the other liability or liabilities and the name of the obligated spouse or spouses.

(c) That a nonobligated spouse may claim his or her share of the refund by filing a nonobligated spouse allocation form with the department of treasury not more than 30 days after the date the notice was mailed.

(d) A statement of the penalties under subsection (7).

(5) A nonobligated spouse who wishes to claim his or her share of a tax refund shall file with the department a nonobligated spouse allocation form. The nonobligated spouse allocation form shall be in a form specified by the department and shall require the spouses to state the amount of income or other tax base and all adjustments to the income or other tax base, including all subtractions, additions, deductions, credits, and exemptions, stated on their joint income tax return or other joint tax return that is the basis for the claimed refund, and an allocation of those amounts between the obligated and nonobligated spouse. In allocating these amounts, all of the following apply:

(a) A federal deduction for 2-income married persons shall be allocated to the spouse with the lower income who claims the deduction.

(b) Individual income shall be allocated to the spouse who earned the income. Joint income shall be allocated equally between the spouses. The tax base appropriate to tax other than income tax shall be similarly allocated.

(c) Each spouse shall be allocated the personal exemptions he or she would be entitled to claim if separate federal returns had been filed, except that dependency exemptions shall be prorated according to the relative income of the spouses.

(d) Adjustments resulting from a business shall be allocated to the spouse who claimed income from the business.

(e) A homestead property tax credit shall be allocated to the spouse who owned the title or held the leasehold interest in the property claimed as a homestead. A homestead property tax credit for property jointly owned or leased shall be allocated jointly between the spouses.

(f) Ownership of other assets relevant to the allocation shall be disclosed upon request of the department.

(6) A nonobligated spouse allocation form shall be signed by both joint taxpayers. However, the form may be submitted without the signature of the obligated spouse if his or her signature cannot be obtained. The nonobligated spouse shall certify that he or she has made a good faith effort to obtain the signature and shall state the reason that the signature was not obtained.

(7) A person who knowingly makes a false statement on a nonobligated spouse allocation form shall be subject to a penalty of \$25.00 or 25% of the excessive claim for his or her share of the refund, whichever is greater, and other penalties as provided in this act.

(8) A nonobligated spouse to whom the department has sent a notice under subsection (4), who fails to file a nonobligated spouse allocation form within 30 days after the date the notice was mailed, shall be barred from commencing any action against this state or the state treasurer to recover an amount withheld to satisfy a liability of the obligated spouse to which a joint tax refund is applied under this section. The payment by this state of any amount applied to a liability of a taxpayer under this section shall release this state and the state treasurer from all liability to the obligated spouse, the nonobligated spouse, and any other person having or claiming any interest in the amount paid.

(9) The department shall promulgate rules under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, as necessary to implement this section. The rules shall include a procedure for assuring that a taxpayer subject to application of a refund under this section and section 30 has received or will receive notice and an opportunity for a hearing with respect to the liability to which the refund is to be applied.

(10) As used in this section:

(a) "Nonobligated spouse" means a person who has filed a joint income tax return or other joint state tax return and who is not liable for an obligation of his or her spouse described in subsection (2).

(b) "Obligated spouse" means a person who has filed a joint income tax return or other joint state tax return and who is liable for an obligation described in subsection (2) for which his or her spouse is not liable.

(c) "Office of child support" means the agency created in section 2 of the office of child support act, Act No. 174 of the Public Acts of 1971, being section 400.232 of the Michigan Compiled Laws.

History: Add. 1985, Act 211, Imd. Eff. Jan. 8, 1986;—Am. 1995, Act 116, Imd. Eff. June 29, 1995.

Popular name: Revenue Act

INCOME TAX ACT OF 1967 (EXCERPT)

Act 281 of 1967

206.520 Credit for property taxes on homestead; credit for person renting or leasing homestead; credit in excess of tax liability due; assignment of claim to mortgagor by senior citizen for rent reduction; eligibility to claim credit on property rented or leased as credit for person receiving aid to families with dependent children, state family assistance, or state disability assistance payments; reduction of credit for claimant whose household income exceeds certain amount; adjustment; credit claimable by senior citizen; limitations; rules; form; determining qualification to claim credit after move; reduction of claim for return of less than 12 months; report by state housing development authority; total credit allowed by section and § 206.522.

Sec. 520. (1) Subject to the limitations and the definitions in this chapter, a claimant may claim against the tax due under this act for the tax year a credit for the property taxes on the taxpayer's homestead deductible for federal income tax purposes pursuant to section 164 of the internal revenue code, or that would have been deductible if the claimant had not elected the zero bracket amount or if the claimant had been subject to the federal income tax. The property taxes used for the credit computation shall not be greater than the amount

levied for 1 tax year.

(2) A person who rents or leases a homestead may claim a similar credit computed under this section and section 522 based upon 17% of the gross rent paid for tax years before the 1994 tax year, or 20% of the gross rent paid for tax years after the 1993 tax year. A person who rents or leases a homestead subject to a service charge in lieu of ad valorem taxes as provided by section 15a of the state housing development authority act of 1966, Act No. 346 of the Public Acts of 1966, being section 125.1415a of the Michigan Compiled Laws, may claim a similar credit computed under this section and section 522 based upon 10% of the gross rent paid.

(3) If the credit claimed under this section and section 522 exceeds the tax liability for the tax year or if there is no tax liability for the tax year, the amount of the claim not used as an offset against the tax liability shall, after examination and review, be approved for payment, without interest, to the claimant. In determining the amount of the payment under this subsection, withholdings and other credits shall be used first to offset any tax liabilities.

(4) If the homestead is an integral part of a multipurpose or multidwelling building that is federally aided housing or state aided housing, a claimant who is a senior citizen entitled to a payment under subsection (2) may assign the right to that payment to a mortgagor if the mortgagor reduces the rent charged and collected on the claimant's homestead in an amount equal to the tax credit payment provided in this chapter. The assignment of the claim is valid only if the Michigan state housing development authority, by affidavit, verifies that the claimant's rent has been so reduced.

(5) Only the renter or lessee shall claim a credit on property that is rented or leased as a homestead.

(6) A person who discriminates in the charging or collection of rent on a homestead by increasing the rent charged or collected because the renter or lessee claims and receives a credit or payment under this chapter is guilty of a misdemeanor. Discrimination against a renter who claims and receives the credit under this section and section 522 by a reduction of the rent on the homestead of a person who does not claim and receive the credit is a misdemeanor. If discriminatory rents are charged or collected, each charge or collection of the higher or lower payment is a separate offense. Each acceptance of a payment of rent is a separate offense.

(7) A person who received aid to families with dependent children, state family assistance, or state disability assistance pursuant to the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.119b of the Michigan Compiled Laws, in the tax year for which the person is filing a return shall have a credit that is authorized and computed under this section and section 522 reduced by an amount equal to the product of the claimant's credit multiplied by the quotient of the sum of the claimant's aid to families with dependent children, state family assistance, and state disability assistance for the tax year divided by the claimant's household income. The reduction of credit shall not exceed the sum of the aid to families with dependent children, state family assistance, and state disability assistance for the tax year. For the purposes of this subsection, aid to families with dependent children does not include child support payments that offset or reduce payments made to the claimant.

(8) A credit under subsection (1) or (2) shall be reduced by 10% for each claimant whose household income exceeds \$73,650.00 and by an additional 10% for each increment of \$1,000.00 of household income in excess of \$73,650.00.

(9) If the credit authorized and calculated under this section and section 522 and adjusted under subsection (7) or (8) does not provide to a senior citizen who rents or leases a homestead that amount attributable to rent that constitutes more than 40% of the household income of the senior citizen, the senior citizen may claim a credit based upon the amount of household income attributable to rent as provided by this section.

(10) A senior citizen whose gross rent paid for the tax year is more than the percentage of household income specified in subsection (9) for the respective tax year may claim a credit for the amount of rent paid that constitutes more than the percentage of the household income of the senior citizen specified in subsection (9) and that was not provided to the senior citizen by the credit computed pursuant to this section and section 522 and adjusted pursuant to subsection (7) or (8).

(11) The department may promulgate rules to implement subsections (9) to (16) and may prescribe a table to allow a claimant to determine the credit provided under this section and section 522 in the instruction booklet that accompanies the respective income tax or property tax credit forms used by claimants.

(12) A senior citizen may claim the credit under subsections (9) to (16) on the same form as the property tax credit permitted by subsection (2). The department shall adjust the forms accordingly.

(13) A senior citizen who moves to a different rented or leased homestead shall determine, for 2 tax years after the move, both his or her qualification to claim a credit under subsections (9) to (16) and the amount of a credit under subsections (9) to (16) on the basis of the annualized final monthly rental payment at his or her previous homestead, if this annualized rental is less than the senior citizen's actual annual rental payments.

(14) For a return of less than 12 months, the claim for a credit under subsections (9) to (16) shall be reduced proportionately.

(15) The Michigan state housing development authority shall report on the effect of the credit provided by subsections (9) to (16) on the price of rented and leased homesteads. If the authority determines that the price of rented and leased homesteads has increased as a result of the credit provided by subsections (9) to (16), the authority shall make recommendations to the legislature to remedy this situation. The report shall be made to the chairpersons of the house and senate committees that have primary responsibility for taxation legislation 2 years after the credit provided by subsections (9) to (16) is in effect.

(16) The total credit allowed by this section and section 522 shall not exceed \$1,200.00 per year.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1979, Act 132, Eff. Mar. 27, 1980;—Am. 1980, Act 352, Imd. Eff. Dec. 29, 1980;—Am. 1982, Act 269, Imd. Eff. Oct. 5, 1982;—Am. 1982, Act 515, Imd. Eff. Dec. 31, 1982;—Am. 1984, Act 285, Imd. Eff. Dec. 20, 1984;—Am. 1985, Act 187, Imd. Eff. Dec. 20, 1985;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 516, Imd. Eff. Dec. 30, 1988;—Am. 1990, Act 283, Imd. Eff. Dec. 14, 1990;—Am. 1992, Act 293, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 328, Eff. Apr. 1, 1994;—Am. 1995, Act 245, Imd. Eff. Dec. 27, 1995.

Constitutionality: The provision in the Income Tax Act for an income-graduated reduction of local property tax credits does not conflict with the constitutional prohibition against a graduated income tax because the property tax credit is payable to the property taxpayer irrespective of state income tax liability. *Butcher v. Department of Treasury*, 425 Mich. 262, 389 N.W.2d 412 (1986).

Compiler's note: Act 253 of 1980, purporting to amend §§ 206.30, 206.512, 206.520, and 206.522 and to add a § 206.261 could not take effect until Senate Joint Resolution X became effective as part of the constitution. Senate Joint Resolution X was submitted to, and disapproved by, the people at the general election held on November 4, 1980.

Section 2 of Act 515 of 1982 provides: "(1) Section 255 of this amendatory act shall be effective for the 1979 tax year and each tax year thereafter.

(2) Section 301 of this amendatory act shall take effect for tax years beginning on or after January 1, 1983.

(3) Section 520 of this amendatory act shall take effect for tax years beginning on or after January 1, 1981."

Section 2 of Act 187 of 1985 provides: "It is the intent of the legislature that this amendatory act shall not serve to affect a credit claimed under section 520 before the effective date of this amendatory act."

Act 486 of 1988, purporting to amend §§ 206.520 and 206.522, could not take effect "unless Senate Joint Resolution K of the 84th Legislature becomes a part of the constitution as provided in section 1 of article XII of the state constitution of 1963." Senate Joint Resolution K was submitted to, and disapproved by, the people at the general election held on November 8, 1988.

Act 166 of 1989, purporting to amend §§ 206.520 and 206.522 and to add a § 206.252, could not take effect "unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the constitution as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.

MICHIGAN VEHICLE CODE (EXCERPT)

Act 300 of 1949

257.307 Application for operator's or chauffeur's license; manner; contents; image and signature; equipment; use of image and information; access by law enforcement agency; signature and certification; fee; refund; organ donor registration; driving record from another jurisdiction; application for original, renewal, or upgrade of vehicle group designation or indorsement; issuing renewal license by mail or other methods; information manual; disclosure or display of social security number; electronic access to organ, tissue, and eye donor registry.

Sec. 307. (1) An applicant for an operator's or chauffeur's license shall supply a birth certificate attesting to his or her age or other sufficient documents or identification as the secretary of state may require. An application for an operator's or chauffeur's license shall be made in a manner prescribed by the secretary of state and shall contain all of the following:

(a) The applicant's full name, date of birth, residence address, height, sex, eye color, signature, and, beginning January 1, 2007, intent to be an organ donor, other information required or permitted on the license under this chapter, and, to the extent required to comply with federal law, the applicant's social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(b) The following notice shall be included to inform the applicant that under sections 509o and 509r of the Michigan election law, 1954 PA 116, MCL 168.509o and 168.509r, the secretary of state is required to use the residence address provided on this application as the applicant's residence address on the qualified voter file for voter registration and voting:

"NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in this application differs from your

voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located."

(c) For an original or renewal operator's or chauffeur's license with a vehicle group designation or indorsement, the names of all states where the applicant has been licensed to drive any type of motor vehicle during the previous 10 years.

(d) For an operator's or chauffeur's license with a vehicle group designation or indorsement, the following certifications by the applicant:

(i) The applicant meets the applicable federal driver qualification requirements under 49 CFR part 391 if the applicant operates or intends to operate in interstate commerce or meets the applicable qualifications of the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25, if the applicant operates or intends to operate in intrastate commerce.

(ii) The vehicle in which the applicant will take the driving skills tests is representative of the type of vehicle the applicant operates or intends to operate.

(iii) The applicant is not subject to disqualification by the United States secretary of transportation, or a suspension, revocation, or cancellation under any state law for conviction of an offense described in section 312f or 319b.

(iv) The applicant does not have a driver's license from more than 1 state or jurisdiction.

(e) An applicant for an operator's or chauffeur's license with a vehicle group designation and a hazardous material indorsement shall provide his or her fingerprints as prescribed by state and federal law.

(2) Except as provided in this subsection, an applicant for an operator's or chauffeur's license may have his or her image and signature captured or reproduced when the application for the license is made. An applicant required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card shall have his or her image and signature captured or reproduced when the application for the license is made. The secretary of state shall acquire by purchase or lease the equipment for capturing the images and signatures and may furnish the equipment to a local unit authorized by the secretary of state to license drivers. The secretary of state shall acquire equipment purchased or leased pursuant to this section under standard purchasing procedures of the department of management and budget based on standards and specifications established by the secretary of state. The secretary of state shall not purchase or lease equipment until an appropriation for the equipment has been made by the legislature. An image and signature captured pursuant to this section shall appear on the applicant's operator's or chauffeur's license. Except as provided in this subsection, the secretary of state may retain and use a person's image and signature described in this subsection only for programs administered by the secretary of state. Except as provided in this subsection, the secretary of state shall not use a person's image or signature, or both, unless the person grants written permission for that purpose to the secretary of state or specific enabling legislation permitting the use is enacted into law. A law enforcement agency of this state has access to information retained by the secretary of state under this subsection. The information may be utilized for any law enforcement purpose unless otherwise prohibited by law. The department of state police shall provide to the secretary of state updated lists of persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, and the secretary of state shall make the images of those persons available to the department of state police as provided in that act.

(3) An application shall contain a signature or verification and certification by the applicant, as determined by the secretary of state, and shall be accompanied by the proper fee. The secretary of state shall collect the application fee with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license.

(4) In conjunction with the application for or, until January 1, 2007, the issuance of an operator's or chauffeur's license, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(i) Information explaining the applicant's right to make an anatomical gift in the event of death in accordance with section 310.

(ii) Information describing the organ, tissue, and eye donor registry program. The information required under this subparagraph includes the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization.

(iii) Information giving the applicant the opportunity to be placed on the registry described in subparagraph (ii).

(b) Provide the applicant with the opportunity to specify on his or her operator's or chauffeur's license that he or she is willing to make an anatomical gift in the event of death in accordance with section 310.

(c) Inform the applicant that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the registry described in subdivision (a)(ii), the secretary of state will mark the applicant's record for the registry.

(d) Provide the applicant with the opportunity to make a donation of \$1.00 or more to the organ and tissue donation education fund created under section 217o. A donation made under this subdivision shall be deposited in the state treasury to the credit of the organ and tissue donation education fund.

(5) The secretary of state may fulfill the requirements of subsection (4) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for an operator's or chauffeur's license renewal or the issuance of an operator's or chauffeur's license.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for operator's and chauffeur's licenses processed by electronic means.

(6) Until January 1, 2007, if an applicant indicates a willingness under this section to have his or her name placed on the organ donor registry described in subsection (4)(a)(ii), the secretary of state shall within 10 days forward the applicant's name, and address, and date of birth to the organ donor registry maintained by Michigan's federally designated organ procurement organization or its successor organization. The secretary of state may forward information under this subsection by mail or by electronic means. The secretary of state shall not maintain a record of the name or address of an individual who indicates a willingness to have his or her name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have his or her name placed on the organ donor registry that is obtained by the secretary of state under subsection (4) and forwarded under this subsection is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243. Beginning January 1, 2007, the secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the registry described in subsection (4)(a)(ii). Information about an applicant's indication of a willingness to have his or her name placed on the registry that is obtained by the secretary of state under subsection (4) and forwarded under subsection (14) is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the national driver register. When received, the driving record and other available information become a part of the driver's record in this state.

(8) If an application is received for an original, renewal, or upgrade of a vehicle group designation or indorsement, the secretary of state shall request the person's complete driving record from all states where the applicant was previously licensed to drive any type of motor vehicle over the last 10 years before issuing a vehicle group designation or indorsement to the applicant. If the applicant does not hold a valid commercial motor vehicle driver license from a state where he or she was licensed in the last 10 years, this complete driving record request must be made not earlier than 24 hours before the secretary of state issues the applicant a vehicle group designation or indorsement. For all other drivers, this request must be made not earlier than 10 days before the secretary of state issues the applicant a vehicle group designation or indorsement. The secretary of state shall also check the applicant's driving record with the national driver register and the federal commercial driver license information system before issuing that group designation or indorsement. If the application is for the renewal of a vehicle group designation or indorsement, and if the secretary of state enters on the person's historical driving record maintained under section 204a a notation that the request was made and the date of the request, the secretary of state is required to request the applicant's complete driving record from other states only once under this section.

(9) Except for a vehicle group designation or indorsement or as provided in this subsection or section 314(5), the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year

period by mail or by other methods prescribed by the secretary of state. The secretary of state may check the applicant's driving record through the national driver register and the commercial driver license information system before issuing a license under this section. The secretary of state shall issue a renewal license only in person if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(10) Upon request, the secretary of state shall provide an information manual to an applicant explaining how to obtain a vehicle group designation or indorsement. The manual shall contain the information required under 49 CFR part 383.

(11) The secretary of state shall not disclose a social security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with 49 USC 31301 to 31317 and regulations and state law and rules related to this chapter.

(b) Through the law enforcement information network, to carry out the purposes of section 466(a) of the social security act, 42 USC 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) To check an applicant's driving record through the national driver register and the commercial driver license information system when issuing a license under this act.

(d) With the department of community health, for comparison with vital records maintained by the department of community health under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

(e) As otherwise required by law.

(12) The secretary of state shall not display a person's social security number on the person's operator's or chauffeur's license.

(13) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The secretary of state shall inform the applicant of this possible exemption.

(14) Beginning January 1, 2007, the secretary of state shall maintain the organ, tissue, and eye donor registry in a manner that provides electronic access, including, but not limited to, transfer of data to this state's federally designated organ procurement organizations, their successor organizations, and tissue and eye banks with limitations on the use of and access to the donor registry as determined by the secretary of state.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1951, Act 270, Eff. Sept. 28, 1951;—Am. 1958, Act 217, Eff. Sept. 13, 1958;—Am. 1964, Act 260, Imd. Eff. June 3, 1964;—Am. 1967, Act 212, Eff. Nov. 2, 1967;—Am. 1972, Act 357, Imd. Eff. Jan. 9, 1973;—Am. 1975, Act 122, Imd. Eff. July 1, 1975;—Am. 1976, Act 358, Imd. Eff. Dec. 23, 1976;—Am. 1980, Act 174, Imd. Eff. June 23, 1980;—Am. 1982, Act 25, Imd. Eff. Mar. 4, 1982;—Am. 1983, Act 216, Imd. Eff. Nov. 11, 1983;—Am. 1984, Act 30, Eff. Apr. 28, 1984;—Am. 1988, Act 346, Eff. Jan. 1, 1990;—Am. 1989, Act 286, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 181, Imd. Eff. July 18, 1990;—Am. 1996, Act 205, Eff. Jan. 1, 1997;—Am. 1998, Act 120, Eff. July 3, 1998;—Am. 1998, Act 330, Imd. Eff. Aug. 10, 1998;—Am. 1999, Act 88, Eff. Sept. 1, 1999;—Am. 1999, Act 118, Eff. Apr. 1, 2000;—Am. 2001, Act 159, Imd. Eff. Nov. 6, 2001;—Am. 2002, Act 259, Imd. Eff. May 1, 2002;—Am. 2002, Act 534, Eff. Oct. 1, 2002;—Am. 2003, Act 152, Eff. Oct. 1, 2003;—Am. 2004, Act 52, Eff. May 1, 2004;—Am. 2004, Act 362, Imd. Eff. Oct. 4, 2004;—Am. 2004, Act 502, Imd. Eff. Dec. 29, 2004;—Am. 2005, Act 142, Imd. Eff. Sept. 29, 2005;—Am. 2006, Act 298, Imd. Eff. July 20, 2006.

Compiler's note: Section 2 of Act 216 of 1983 provides: "Not later than 2 years after the effective date of this amendatory act, the secretary of state shall report to the legislature regarding the effect on highway safety that eliminating the age requirement under subsection (5) has had."

Section 2 of Act 30 of 1984 provides: "The secretary of state shall implement section 307 as amended by this amendatory act beginning with operator's and chauffeur's licenses which expire on May 19, 1984."

Section 2 of Act 346 of 1988 provides:

"(1) Except as otherwise provided in this section, this amendatory act shall take effect October 1, 1989.

"(2) Sections 634, 710g, 722, 723, 724, 802, and 907 of this amendatory act shall take effect January 1, 1989.

"(3) Sections 4B and 801 of this amendatory act shall take effect upon the date of enactment of this amendatory act."

Section 2 of Act 173 of 1989 provides:

"(1) The amendments made to sections 8b, 57, 67a, 301, 303, 305, 306, 307, 309, 310, 312d, 312e, 312f, 312g, 312h, 314, 314b, 319a, 321a, 323, 728, 732, 743, and 907 of Act No. 300 of the Public Acts of 1949, being sections 257.8b, 257.57, 257.67a, 257.301,

257.303, 257.305, 257.306, 257.307, 257.309, 257.310, 257.312d, 257.312e, 257.312f, 257.312g, 257.312h, 257.314, 257.314b, 257.319a, 257.321a, 257.323, 257.728, 257.732, 257.743, and 257.907 of the Michigan Compiled Laws, by Act No. 346 of the Public Acts of 1988 shall take effect January 1, 1990.

“(2) Enacting section 2 of Act No. 346 of the Public Acts of 1988 is repealed.”

Enacting section 1 of Act 330 of 1998 provides:

“Enacting section 1. The family independence agency shall request from the federal government an exemption from the provisions regarding the recording of social security numbers added by this 1998 amendatory act, which are intended to be used for the collection of child support, as required by federal law in order for this state to receive certain federal funds. Upon the granting of the exemption, those provisions referred to by this enacting section shall not be utilized or enforced by the state or a local governmental entity.”

Administrative rules: R 460.16101 et seq. of the Michigan Administrative Code.

MENTAL HEALTH CODE (EXCERPT)

Act 258 of 1974

330.1818 Adult inpatient psychiatric services less than 61 days, nonresidential services, and services to minors; provisions applicable to ability to pay; rules.

Sec. 818. (1) The department and community mental health services programs shall determine an adult responsible party's ability to pay for adult inpatient psychiatric services of less than 61 days, all nonresidential services, and all services to minors, on the basis of the adult responsible party's income in accordance with all of the following:

(a) The department or community mental health services program shall consider the adult responsible party's income to be taxable income as set forth in the adult responsible party's most recently filed state income tax return. If the parents of an individual, or the individual and spouse, are members of the same household but file separate income tax returns, the department or community mental health services program shall add together the separate taxable incomes to determine the ability to pay. If the parents or the individual and spouse are not members of the same household and they file separate tax returns, the ability to pay of each parent or of the individual and his or her spouse shall be determined separately.

(b) If an adult responsible party has not filed a state income tax return, the department or community mental health services program shall determine the adult responsible party's income from those financial documents that are legally available, based on the same factors that determine taxable income under subdivision (a).

(c) Relying upon an adult responsible party's income as determined under subdivision (a) or (b), the department and community mental health services programs shall determine ability to pay based on an ability-to-pay schedule developed under subsection (2).

(d) An adult responsible party's ability to pay for a calendar month or any part of a calendar month is the amount specified as the monthly amount in the applicable ability-to-pay schedule.

(e) A parent shall not be determined to have an ability to pay for more than 1 individual at any 1 time, and a parent's total liability for 2 or more individuals shall not exceed 18 years.

(f) If either parent or either spouse has been made solely responsible for an individual's medical and hospital expenses by a court order, the other parent or spouse shall be determined to have no ability to pay. The ability to pay of the parent or spouse made solely responsible by court order shall be determined in accordance with this section. The ability to pay of a parent made solely responsible by court order shall be reduced by the amount of child support the parent pays for the individual.

(g) If an individual receives services for more than 1 year, the department or community mental health services program shall annually redetermine the adult responsible parties' ability to pay on the basis of the most recently filed state income tax return or as provided in subdivision (b).

(2) The department shall promulgate rules to establish an ability-to-pay schedule that is fair and equitable. The schedule may take into consideration geographic cost-of-living differences. The department shall review the ability-to-pay schedule at least every 3 years and shall update the schedule as necessary. The department shall submit proposed rules under this subsection within 6 months after the effective date of the amendatory act that added section 819.

History: 1974, Act 258, Eff. Nov. 6, 1974;—Am. 1981, Act 91, Imd. Eff. July 2, 1981;—Am. 1995, Act 290, Eff. Mar. 28, 1996.

Administrative rules: R 330.1001 et seq. of the Michigan Administrative Code.

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.2640 Parentage registry; use and access by family independence agency; access to child's medical records and information; immunity; exception.

Sec. 2640. (1) The department shall give prompt access to the parentage registry to the family independence agency or its agent for the purpose of the family independence agency's duty to aid in the

establishment or enforcement of child support obligations. The family independence agency or its agent may use or disclose the information from the parentage registry in carrying out that duty.

(2) Notwithstanding section 2637, if there is a compelling need for medical records or information to determine whether child abuse or neglect has occurred or to take action to protect a child where there may be a substantial risk of harm, the department shall give access to a family independence agency caseworker or administrator directly involved in the investigation to the child's medical records and information that are pertinent to the child abuse or neglect investigation. Medical records or information disclosed under this section shall include the identity of the individual to whom the record or information pertains.

(3) The department shall provide the access described by subsection (2) only upon receipt of a written request from a caseworker or administrator directly involved in the investigation and shall provide that access within 14 calendar days after the record holder receives the written request. The department shall provide that access regardless of the consent of the person from whom consent would otherwise be required.

(4) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good faith provides access to medical records or information under subsection (2) is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

(5) This section does not apply to a report, record, datum, or information whose confidentiality and disclosure are governed by section 5131.

History: Add. 1996, Act 307, Imd. Eff. June 20, 1996;—Am. 1998, Act 496, Eff. Mar. 1, 1999.

Popular name: Act 368

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.2811 Form and content of vital records and certificates.

Sec. 2811. The department shall prescribe the form and content of vital records and certificates, which shall conform as nearly as possible to recognized national standardized forms including, as required to comply with federal law, requirements for the entry of social security numbers.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 332, Imd. Eff. Aug. 10, 1998.

Compiler's note: Enacting section 2 of 1998 PA 332 provides:

"Enacting section 2. The family independence agency shall request from the federal government an exemption from the provisions regarding the recording of social security numbers added by this 1998 amendatory act, which are intended to be used for the collection of child support, as required by federal law in order for this state to receive certain federal funds. Upon the granting of the exemption, those provisions referred to by this enacting section shall not be utilized or enforced by the state or a local governmental entity."

Popular name: Act 368

REGULATED OCCUPATION SUPPORT ENFORCEMENT ACT (EXCERPT)

Act 236 of 1996

338.3434a Social security number; inclusion on license application form; disclosure prohibited; violation; penalty; exception.

Sec. 4a. (1) In order to facilitate the enforcement and administration of this act and as required to comply with federal law, an occupational regulatory agency shall require each applicant for a license or renewal of a license to include his or her social security number on the application form. An occupational regulatory agency shall not issue or renew a license unless the applicant's social security number is on file with the occupational regulatory agency as required to comply with federal law. An occupational regulatory agency shall not display a licensee's social security number on the licensee's occupational license.

(2) A person shall not intentionally disclose, in a manner not authorized by law or rule, a social security number collected as required by this section. A violation of this subsection is a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both. A second or subsequent violation of this subsection is a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(3) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The occupational regulatory agency shall inform the applicant of this possible exemption.

History: Add. 1998, Act 331, Imd. Eff. Aug. 10, 1998.

Compiler's note: Enacting section 2 of 1998 PA 331 provides:

"Enacting section 2. The family independence agency shall request from the federal government an exemption from the provisions

regarding the recording of social security numbers added by this 1998 amendatory act, which are intended to be used for the collection of child support, as required by federal law in order for this state to receive certain federal funds. Upon the granting of the exemption, those provisions referred to by this enacting section shall not be utilized or enforced by the state or a local governmental entity.”

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.18a Friend of the court incentive payment program; establishment; activities; subsection (1) inapplicable to certain judicial circuits; annual appropriation.

Sec. 18a. (1) A friend of the court incentive payment program is established in the state department. Except as provided in subsection (2), the program shall consist of the following activities:

(a) An annual determination of the gross amount of child support payments collected by each office of the friend of the court for families receiving aid to families with dependent children, which amount is collected under the friend of the court act, Act No. 294 of the Public Acts of 1982, being sections 552.501 to 552.535 of the Michigan Compiled Laws, or the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

(b) The remitting of 3% of the amount determined under subdivision (a) for an office, to the county treasurer for the appropriate county or counties for deposit in the friend of the court fund created in section 2530 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2530 of the Michigan Compiled Laws, if the county board of commissioners makes appropriations in accordance with that section.

(2) Subsection (1) does not apply to any judicial circuit in which the employees serving in the circuit court are employees of the state judicial council.

(3) The legislature annually shall appropriate to the state department an amount equal to the amount required to be remitted under subsection (1)(b).

History: Add. 1982, Act 298, Eff. July 1, 1983;—Am. 1996, Act 12, Eff. June 1, 1996.

Compiler's note: Former § 400.18a, providing for allocation and distribution of aid to persons permanently and totally disabled, was repealed by Act 286 of 1957.

Popular name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.55a General assistance; eligibility of applicant; determination; failure of employable person to participate in approved project or to accept employment.

Sec. 55a. (1) In determining the eligibility of an applicant for general assistance, and before granting the assistance, except temporary assistance pending disposition of the case, the county and district departments of social services shall conform to the following:

(a) Require each applicant entitled to alimony or separate maintenance to seek the assistance of the friend of the court.

(b) Clear with the proper legal authorities the case of an applicant who is deserted by his or her spouse to determine the advisability of legal action to obtain support.

(c) If it is indicated that eligibility for benefits from other programs such as unemployment compensation, old-age and survivors insurance benefits, federal veterans' benefits, aid to families with dependent children, or supplemental security income exists, secure a clearance in writing with each appropriate agency.

(d) Require an employable person to work on a work relief or work training project, or other departmental-approved activity, if available, in return for assistance given. A person participating in a work relief or work training project shall be entitled to the benefits provided by Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws. All work relief or work training projects or other departmental-approved activities authorized by this section shall be subject to all of the following conditions:

(i) Any person required to work on an approved project or activity, upon claiming to be physically incapable to work when so assigned, shall be given a thorough medical examination by competent medical authorities to ascertain his or her ability to participate in the required project or activity.

(ii) Each person assigned to an approved project or activity may be required to register for employment with the Michigan employment security commission, if the service is available, and to investigate all bona fide employment opportunities.

(e) Determine that each employable applicant, mentally and physically able to work, is not currently refusing to accept available employment for which wages not less than the usual rate paid by that employer for the particular kind of employment are being offered.

(2) Any employable person who, without good cause, fails to participate in an approved project or activity or to accept available lawful employment for which wages, not less than the usual rate paid by that employer for that particular kind of employment are being offered, shall have his or her needs removed from the general assistance grant and shall not be eligible for general assistance for 3 months.

History: Add. 1951, Act 128, Eff. Sept. 28, 1951;—Am. 1964, Act 148, Eff. Aug. 28, 1964;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1980, Act 251, Eff. Dec. 12, 1980.

Compiler's note: Former MCL 400.55a, deriving from Act 20 of 1950, Ex. Sess., and pertaining to eligibility of applicants for general public relief, was held invalid in Op. Atty. Gen. 1951-1952, No. 1367.

Popular name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)

Act 280 of 1939

400.57e Family self-sufficiency plan; execution; development; contents; identification of goals; monitoring compliance with plan.

Sec. 57e. (1) Each family receiving family independence assistance shall execute a family self-sufficiency plan outlining the responsibilities of members of the family independence program assistance group, the contractual nature of family independence program assistance, and the focus on the goal of attaining self-sufficiency. The family self-sufficiency plan shall be developed by the department and the adult family members of the family independence assistance program group with the details of work first participation to be included in the family self-sufficiency plan being developed by the department, the department of labor and economic growth, and the adult family members of the family independence assistance program group. Except as described in section 57b, the department shall complete a thorough assessment to facilitate development of the family self-sufficiency plan, including consideration of referral to a life skills program, and determination as to whether the family independence assistance program group's adult members are eligible to participate in the work first program or are exempt from work first participation under section 57f. The family self-sufficiency plan shall identify compliance goals that are to be met by members of the family independence assistance program group and goals and responsibilities of the members of the family independence assistance program group, the department, and the work first program. The family self-sufficiency plan shall reflect the individual needs and abilities of the particular family, and shall include at least all of the following:

(a) The obligation of each adult and each child aged 16 or older who is not attending elementary or secondary school full-time to participate in the work first program unless exempt under section 57f.

(b) The obligation of each minor parent who has not completed secondary school to attend school.

(c) Except as provided in section 57f(3), the obligation of each adult to engage in employment, work first activities, education or training, community service activities, or self-improvement activities, as determined appropriate by the department.

(d) The obligation to cooperate in the establishment of paternity and the procurement of child support, if applicable.

(e) The obligation of a recipient who fails to comply with compliance goals due to substance abuse to participate in substance abuse treatment and submit to any periodic drug testing required by the treatment program.

(f) If the recipient is determined to be eligible to participate in the work first program, the obligation that the requirements of the family self-sufficiency plan must, at a minimum, meet federal guidelines for work participation. Exceptions may be granted if it is determined that the recipient or a family member in the recipient's household has a disability that needs reasonable accommodation as required by section 504 of title V of the rehabilitation act of 1973, 29 USC 794, subtitle A of title II of the Americans with disabilities act of 1990, 42 USC 12131 to 12134, or another identified barrier that interferes with the recipient's ability to participate in required activities. Reasonable accommodation must be made to adjust the number of required hours or the types of activities required to take the identified limitations into account.

(g) The obligation that the recipient must enroll in a GED preparation program, a high school completion program, or a literacy training program, if the department determines the resources are available and the assessment and plan demonstrate that these issues present a barrier to the recipient meeting the requirements in his or her family self-sufficiency plan. This basic educational skills training shall be combined with other occupational skills training, whenever possible, to assure that it can be counted toward federal work participation requirements.

(h) Any other obligation the department determines is necessary to enable the family to achieve independence.

(2) The department shall monitor each family's compliance with the family self-sufficiency plan.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996;—Am. 2001, Act 280, Eff. Mar. 22, 2002;—Am. 2006, Act 469, Imd. Eff. Dec. 20, 2006.

Popular name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

400.83 Obtaining information from financial institution, department of treasury, employment security commission, employer, or former employer; demand or subpoena; definition; computer data matching system; confidentiality.

Sec. 83. (1) The director of the state department of social services or the director of any county department of social services may demand and receive from any financial institution, the Michigan department of treasury, the Michigan employment security commission, employer, or former employer doing business in this state, information with respect to the transactions with any such institution, dates of employment, number of hours worked and rate of pay of an applicant for or recipient of any form of aid or relief under this act. The officers and employees of the institution or employer shall furnish the information on the written demand of the director. A demand directed to a financial institution or an employer shall be in the form of a subpoena issued by the director under section 8 when the identification of applicants and recipients to the financial institution or employer is by means of computer tape or other data process media. The institution or employer shall furnish the information within 15 days after the demand or subpoena is received by the institution or employer.

(2) As used in this section, “financial institution” means a state bank, a national banking association, a state or federal savings and loan association, a federal savings bank, or a state or federal credit union.

(3) The director of the state department shall cooperate with the Michigan employment security commission in the development of a computer data matching system by which records of the department of social services concerning applicants for, and recipients of, assistance under this act shall be compared with claimant and wage information requested on at least a quarterly basis from, and furnished by, the Michigan employment security commission pursuant to sections 11 and 13 of the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, being sections 421.11 and 421.13 of the Michigan Compiled Laws. The computer data matching system shall be used only to determine or verify eligibility of an individual for aid or assistance administered under this act or the amount or type of assistance for which the individual is eligible; to investigate or prosecute instances of alleged fraud; or to establish and collect child support obligations or locate individuals owing child support obligations.

(4) The information obtained under subsection (3) shall be considered confidential and shall not be disclosed by officers or employees of the department of social services to any person or agency except as provided in section 11(b)(2) of Act No. 1 of the Public Acts of the Extra Session of 1936.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.83;—Am. 1976, Act 345, Eff. Mar. 31, 1977;—Am. 1985, Act 140, Imd. Eff. Oct. 28, 1985;—Am. 1985, Act 161, Eff. Dec. 26, 1985.

Popular name: Act 280

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

400.112a Liability for medicaid services; referral to department of treasury as state debt; claims against tax refund as secondary to claims for child support; “medicaid” defined.

Sec. 112a. (1) An individual is liable to the state for the amount expended by the department under medicaid for medical services for the individual's child if all of the following apply:

(a) The individual is required by court or administrative order to provide dependent health care coverage for the child.

(b) The child is eligible for medicaid.

(c) The individual received payment from a third party for the costs of medical services for the child.

(d) The individual failed to reimburse the provider of the medical services either directly or through the custodial parent or guardian of the child.

(e) The department expended funds under medicaid for the medical services provided for the child.

(2) After notice and an opportunity for an administrative hearing under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws, the department shall refer the matter to the department of treasury for collection as a state debt through the offset of state tax refunds, and may use the services of the department of treasury to levy the salary, wages, or other employment income, of an individual who has a liability to the state pursuant to subsection (1).

(3) Claims against an individual's income or state tax refund under this section are secondary to claims for current and past due child support.

(4) As used in this section, "medicaid" means the program of medical assistance established pursuant to section 105.

History: Add. 1994, Act 429, Imd. Eff. Jan. 6, 1995.

Popular name: Act 280

MICHIGAN CHILDREN'S INSTITUTE (EXCERPT)

Act 220 of 1935

400.203 Provisions for admission of child under 17 to Michigan children's institute.

Sec. 3. (1) A child under 17 years of age, provision for whose support and education has been made under regulations of the family independence agency, may be admitted to the Michigan children's institute by commitment to the family independence agency. All children committed to the Michigan children's institute shall be considered committed to the family independence agency and shall be subject to review by the juvenile division of the probate court under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32. The superintendent of the institute shall represent the state as guardian of each child committed beginning with the day the child is admitted and continuing until the child is 19, unless the superintendent or the family independence agency discharges the child sooner as provided in section 8 or 9. Wherever commitment to the Michigan children's institute is mentioned in any law of this state, it shall be construed to mean commitment to the family independence agency. A child may be committed to the family independence agency by either of the following:

(a) By the juvenile division of the probate court, if the child is within the court's jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(b) By the probate court, if the child is a ward of the court and the court has denied an order of adoption for the child.

(c) By observation order. If a child has been decreed to be a ward of the probate court or the juvenile division of the probate court has acquired formal jurisdiction of a child, and it appears to the probate court that, because of the circumstances of the case or because the child's condition might be benefited, the court may make a temporary commitment to the family independence agency and direct that the child be taken to a facility of the Michigan children's institute for observation for a period not to exceed 90 days. Before the expiration of this order of observation, the superintendent of the institute shall report to the probate court the results of the observation of the child. If the superintendent reports to the probate court that the order of observation should be extended or that the child is in need of treatment for emotional disturbance that does not require hospital care and for which the institute has facilities, then the court may extend the temporary commitment and continue the observation order or establish a treatment period for the child to any date prior to the nineteenth birthday of the child. If the child has ceased to be a ward of the court, written consent of the person or persons lawfully having custody of the child shall be secured. Before the expiration of this extended order of observation or treatment, the superintendent shall report to the probate court the results of the observation or treatment of the child and an opinion stating what disposition can be made of the child. Before any child is sent to a facility of the institute for observation, the superintendent of the institute shall notify the probate court that there is room to receive the child and shall designate the facility of the institute for the reception of the child. The commission may by regulation establish conditions for the reimbursement of the expense of caring for the child while under the supervision of the institute if the parents or other persons responsible for the child's support are financially able to pay reasonable costs of the child's care.

(2) The superintendent of the institute has the power to make decisions on behalf of a child committed to the institute. The attorney general or his or her representative shall represent the Michigan children's institute superintendent in any court proceeding in which the superintendent considers such representation necessary to carry out his or her duties under this act.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—Am. 1943, Act 207, Eff. July 30, 1943;—Am. 1944, 1st Ex. Sess., Act 8, Imd. Eff. Feb. 19, 1944;—CL 1948, 400.203;—Am. 1951, Act 120, Eff. Sept. 28, 1951;—Am. 1955, Act 220, Eff. Oct. 14, 1955;—Am. 1957, Act 74, Eff. Sept. 27, 1957;—Am. 1959, Act 90, Eff. Mar. 19, 1960;—Am. 1988, Act 225, Eff. Apr. 1, 1989;—Am. 2004, Act 470, Imd. Eff. Dec. 28, 2004.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)

Act 174 of 1971

400.231 Definitions.

Sec. 1. As used in this act:

(a) "Account" means any of the following:

- (i) A demand deposit account.
- (ii) A draft account.
- (iii) A checking account.
- (iv) A negotiable order of withdrawal account.
- (v) A share account.
- (vi) A savings account.
- (vii) A time savings account.
- (viii) A mutual fund account.
- (ix) A securities brokerage account.
- (x) A money market account.
- (xi) A retail investment account.
- (xii) An electronic access or debit card.
- (b) "Account" does not mean any of the following:
 - (i) A trust.
 - (ii) An annuity.
 - (iii) A qualified individual retirement account.
 - (iv) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.
 - (v) A pension or retirement plan.
 - (vi) An insurance policy.
- (c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact an account holder.
- (d) "Adult responsible for the child" means a parent, relative who has physically cared for the child, putative father, or current or former guardian of a child, including an emancipated or adult child.
- (e) "Current employment" means employment within 1 year before a friend of the court request for information.
- (f) "Department" means the family independence agency.
- (g) "Financial asset" means stock, a bond, a money market fund, a deposit, an account, or a similar instrument.
- (h) "Financial institution" means any of the following:
 - (i) A state or national bank.
 - (ii) A state or federally chartered savings and loan association.
 - (iii) A state or federally chartered savings bank.
 - (iv) A state or federally chartered credit union.
 - (v) An insurance company.
 - (vi) An entity that offers any of the following to a resident of this state:
 - (A) A mutual fund account.
 - (B) A securities brokerage account.
 - (C) A money market account.
 - (D) A retail investment account.
 - (vii) An entity regulated by the securities and exchange commission that collects funds from the public.
 - (viii) An entity that is a member of the national association of securities dealers and that collects funds from the public.
 - (ix) An entity that collects funds from the public.
- (i) "Office" means the office of child support.
- (j) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, 1982 PA 294, MCL 552.502. The term "friend of the court case", when used in a provision of this act, is not effective until on and after December 1, 2002.
- (k) "Payer", "recipient of support", "source of income", and "support" mean those terms as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.
- (l) "State disbursement unit" or "SDU" means the entity established in section 6 for centralized state receipt and disbursement of support and fees.
- (m) "Title IV-D" means part D of title IV of the social security act, 42 USC 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 209, Eff. Mar. 1, 1986;—Am. 1998, Act 112, Eff. June 30, 1998;—Am. 1999, Act 161, Imd. Eff. Nov. 3, 1999;—Am. 2002, Act 564, Eff. Mar. 31, 2003;—Am. 2004, Act 548, Imd. Eff. Jan. 3, 2005.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)

Act 174 of 1971

400.231a Short title.

Sec. 1a. This act shall be known and may be cited as the “office of child support act”.

History: Add. 1985, Act 209, Eff. Mar. 1, 1986.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)

Act 174 of 1971

400.232 Office of child support; establishment.

Sec. 2. The office of child support is established in the department.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 209, Eff. Mar. 1, 1986;—Am. 1998, Act 112, Eff. June 30, 1998.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)

Act 174 of 1971

400.233 Office of child support; duties.

Sec. 3. The office shall do all of the following:

- (a) Serve as a state agency authorized to administer title IV-D.
- (b) Assist a governmental agency or department in locating an adult responsible for the child for any of the following purposes:
 - (i) To establish parentage.
 - (ii) To establish, set the amount of, modify, or enforce support obligations.
 - (iii) To disburse support receipts.
 - (iv) To make or enforce child custody or parenting time orders.
- (c) Coordinate activity on a state level in a search for an adult responsible for the child.
- (d) Obtain information that directly relates to the identity or location of an adult responsible for the child.
- (e) Serve as the information agency as provided in the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183, and uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.
- (f) Develop guidelines for coordinating activities of a governmental department, board, commission, bureau, agency, or council, or a public or private agency, in providing information necessary for the location of an adult responsible for the child.
- (g) Develop, administer, and coordinate with the state and federal departments of treasury a procedure for offsetting the state tax refunds and federal income tax refunds of a parent who is obligated to support a child and who owes past due support. The procedure shall include a guideline that the office submit to the state department of treasury, not later than November 15 of each year, all requests for the offset of state tax refunds claimed on returns filed or to be filed for that tax year.
- (h) Develop and implement a statewide information system to facilitate the establishment and enforcement of child support obligations.
- (i) Publicize through regular and frequent, nonsexist public service announcements the availability of support establishment and enforcement services.
- (j) Develop and implement in cooperation with financial institutions a data matching and lien and levy system to identify assets of and to facilitate the collection of support from the assets of individuals who have an account at a financial institution and who are obligated to pay support as provided in this act.
- (k) Provide discovery and support for support enforcement activities as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.
- (l) Have in effect safeguards against the unauthorized use or disclosure of case record information that are designed to protect the privacy rights of the parties as specified in sections 454 and 454a of title IV-D, 42 U.S.C. 654 and 654a, and that are consistent with the use and disclosure standards provided under section 64 of the social welfare act, 1939 PA 280, MCL 400.64.
- (m) As provided in section 10 for friend of the court cases, centralize administrative enforcement remedies and develop and implement a centralized enforcement program to facilitate the collection of support.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 209, Imd. Eff. Jan. 8, 1986;—Am. 1998, Act 112, Eff. June 30, 1998;—Am. 2002, Act 564, Eff. Mar. 31, 2003.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)

Act 174 of 1971

400.233a Offset proceedings against tax refunds; initiation; notice; reimbursement.

Sec. 3a. (1) Upon receipt of a request from the office of the friend of the court under section 24 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.624, the office of child support shall initiate offset proceedings against the state tax refunds and federal income tax refunds of a parent who is obligated to support a child and who owes past due support.

(2) The office shall send to a parent who is the subject of a request under subsection (1) advance written notice of the proposed offset. The notice shall inform the parent of the opportunity to contest the offset of his or her state income tax refund on the grounds that the offset is not proper because of a mistake of fact concerning the amount of overdue support or the identity of the parent.

(3) The office shall provide for the prompt reimbursement of an amount withheld in error or an amount found to exceed the amount of overdue support.

History: Add. 1985, Act 209, Imd. Eff. Jan. 8, 1986;—Am. 1996, Act 3, Eff. June 1, 1996;—Am. 1998, Act 112, Eff. June 30, 1998.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)

Act 174 of 1971

400.234 Information or records from other agencies.

Sec. 4. (1) Upon request of the office or the state agency of another state that administers a program under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b, a governmental department, board, commission, bureau, agency, or council; a public or private entity; or a financial institution shall provide any information or record that assists in implementing this act. The information and records include, but are not limited to, all of the following:

(a) Information on the current employment, compensation, and benefits of the individual employed as an employee or an independent contractor of the entity including a for-profit, nonprofit, and governmental employer.

(b) A state or local government agency record including, but not limited to, all of the following:

(i) Vital statistics.

(ii) State or local tax and revenue records including information on residence address, employer, income, and assets.

(iii) A real and titled personal property record.

(iv) An occupational, professional, recreational, or sporting license record.

(v) A record on the ownership and control of a corporation, partnership, or other business entity.

(vi) An employment security agency record.

(vii) A record of an agency administering a public assistance program.

(viii) A motor vehicle record.

(ix) A corrections record.

(x) A worker's compensation record.

(c) Information from the law enforcement information network.

(d) Information from a financial institution as provided in section 4a.

(e) A public utility or cable television company record.

(2) The director of the office or his or her designee may issue an administrative subpoena to require an entity to furnish information or a record in the possession of the entity that pertains to a parent or putative father who is or was employed by or an independent contractor of the entity and that is demanded by the office for the purpose of administering or providing services pursuant to part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b. The entity's officers or employees shall furnish the information or record within 15 days after the subpoena is received by the entity. This subsection does not abrogate a confidentiality privilege established by law.

(3) An entity is not liable under a federal or state law to any person for a disclosure of information to the office or the designee of the office under this act or for another action taken in good faith to comply with this act.

(4) A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is not liable for a wrongful disclosure of information or records if the governmental department, board, commission, bureau, agency, or council or public or private entity or financial institution acted in good faith. A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is liable for a negligent wrongful disclosure of information or records in an amount of the damages incurred or \$1,000.00, whichever is greater. A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is liable for a willful wrongful disclosure of information or records in an amount of 3 times the damages incurred or \$3,000.00, whichever is greater, together with all costs and reasonable attorney's fees incurred. For the purposes of this subsection, each violation gives rise to a separate cause of

action for which separate damages may be awarded. For the purposes of this subsection, damages include reasonable attorney fees.

(5) If an entity does not comply with a subpoena or request for information or records, the director of the office or his or her designee may petition the circuit court in the county in which the inquiry is being made to require the production of books, papers, and documents. In the case of refusal to comply with a subpoena or request for information, the circuit court may issue an order requiring the person to appear and to produce books, records, and papers. The court may punish a failure to comply with the court order as contempt.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1998, Act 112, Eff. June 30, 1998.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)

Act 174 of 1971

400.234a Reports or information provided by financial institution.

Sec. 4a. (1) The office shall enter into an agreement with financial institutions doing business in this state to collect the name, address, social security number, and account numbers for each parent who maintains an account at the financial institution and who owes past due child support as identified by the state.

(2) Not more than once each calendar quarter, the office may request from each financial institution the name, address, social security number, and account number for each person listed in the request who maintains an account at the financial institution.

(3) The office's request under subsection (2) shall contain the name and only 1 social security number for each person listed in the request.

(4) Except as otherwise provided in this subsection, the office shall remove an individual's name and social security number from a request to a financial institution under subsection (2) if the individual's name or social security number was on the requests to the financial institution in the 2 immediately preceding quarters and the financial institution did not find a match for that name or social security number for either of those requests. The office may include the individual's name and social security number on a request to the financial institution under subsection (2) in the succeeding quarter, if the office believes that the individual has opened an account subsequent to the 2 successive quarters in which a match was not found.

(5) All requests made by the office under subsection (2) shall be in machine readable form unless the financial institution expressly asks the office to submit the request in writing in which case the office shall submit the request and all subsequent requests to the financial institution in writing until the financial institution asks the office to submit the request in machine readable form after which time the office shall submit the request in machine readable form.

(6) Except as provided in subsection (10) or (12), the financial institution shall furnish the information in a machine readable form to the office unless the financial institution asked the office to submit the request in writing, in which case the financial institution may furnish the information in writing or in machine readable form. The financial institution shall furnish the information to the office within 45 days after receipt of the request from the office. A financial institution that files reports under this subsection is not required to comply with subsection (10).

(7) The financial institution may base its search of account records solely on the social security number that is provided for each person included in the request from the office.

(8) A financial institution may respond to the office that the name or the social security number, or both, that were contained in the office's request do not correspond to the records of the financial institution.

(9) A financial institution may choose only to furnish information on an account that has a balance of more than \$500.00 at the time the request is processed by the financial institution.

(10) As an alternative to subsection (6), within 45 days of the end of the first calendar quarter of every year, a financial institution may submit to the office, or to the federal government or its designee, a report of the name, address, social security number, and account number of each person who maintains an account at the financial institution on the last day of the first calendar quarter. Within 45 days after the end of each subsequent quarter of the calendar year, the financial institution that elects the option under this subsection shall submit to the office a report of the name, address, social security number, and account number of each person who opens a new account during the quarter or closes an account that had been reported in a prior quarter during the calendar year. The financial institution may furnish the report in a machine readable form or in writing to the office at the discretion of the financial institution. A financial institution that files reports under this subsection is not required to comply with subsection (6).

(11) Unless otherwise required by law, a financial institution that furnishes a report or provides information to the office under subsection (6) or (10), or to the federal government or its designee under subsection (12), shall not disclose to a depositor or an account holder that the name of the depositor or account holder has been received from or furnished to the office, or to the federal government or its designee.

However, a financial institution may disclose to its depositors and account holders and others that the office, or the federal government or its designee, has the authority to request information on depositors or account holders and that the financial institution may provide that information to the office.

(12) To the extent permitted by federal law or policy, a financial institution may furnish information to the federal government or its designee in accordance with data matching processes the federal government establishes under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b.

History: Add. 1998, Act 112, Eff. June 30, 1998.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)
Act 174 of 1971

400.234b Obligation or liability incurred by financial institution.

Sec. 4b. (1) A financial institution incurs no obligation or liability to a depositor, account holder, or other person or entity arising from the furnishing of a report or information to the office, to an office agent or representative, or to the federal government or its designee under this act or from the failure to disclose to a depositor, account holder, or other person that the name of a person was included in the report or information provided.

(2) A financial institution incurs no obligation or liability to the office or another person or entity for an error or omission made in good faith compliance with this act.

(3) A financial institution incurs no obligation or liability for blocking, freezing, placing a hold upon, surrendering, or otherwise dealing with a person's or entity's financial assets in response to a lien imposed or information provided pursuant to this act.

(4) A financial institution is not obligated to block, freeze, place a hold upon, surrender, or otherwise deal with a person's or entity's financial assets until served with and having a reasonable opportunity to act upon a subpoena, summons, warrant, court order, administrative order, lien, or levy served upon the financial institution in accordance with the laws of this state. A financial institution that surrenders financial assets to the friend of the court in response to a lien imposed under state law is discharged from any obligation or liability to the depositor, account holder, or other person or entity related to the financial assets that are surrendered to the friend of the court.

(5) A financial institution that surrenders financial assets to the friend of the court may assess the account holder a service charge not to exceed 10% of the amount surrendered to the friend of the court. The service charge shall be in addition to any other fee or charge authorized by this act or otherwise not prohibited by law.

History: Add. 1998, Act 112, Eff. June 30, 1998.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)
Act 174 of 1971

400.234c Conduct by financial institution.

Sec. 4c. This act does not prohibit a financial institution from doing any of the following:

(a) Assessing and collecting fees and other charges from an account holder or depositor including, but not limited to, fees and charges for the maintenance and activities on an account.

(b) Charging back or recouping a deposit to an account.

(c) Setting off a debt owed to the financial institution from an account held by the financial institution.

(d) Exercising a banker's lien on an account held by the financial institution for a debt owed to the financial institution.

(e) Disclosing information received from the office to an employee, agent, or representative of the financial institution or an affiliate of the financial institution for the purpose of complying with this act and otherwise dealing with a customer or account holder of the financial institution or an affiliate of the financial institution.

History: Add. 1998, Act 112, Eff. June 30, 1998.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)
Act 174 of 1971

400.235 Availability and purposes of information.

Sec. 5. (1) The information obtained by the office shall be available to a governmental department, board, commission, bureau, agency, political subdivision of any state, a court of competent jurisdiction, or the federal government for purposes of administering, enforcing, and complying with state and federal laws governing child support and domestic relations matters. Unless otherwise precluded by state or federal law, the information obtained by the office is also available for purposes specified in 45 CFR 303.21. The office

shall not release information regarding the use or payment history of an electronic access or debit card. Information pertaining to this type of account, if needed, shall be obtained from the recipient of support or the recipient's financial institution.

(2) The office shall not release information on an address or other information concerning an adult responsible for a child to another adult responsible for the child if the release is prohibited by a court order or if the office has reason to believe that release of information may result in physical or emotional harm to that adult or to the child. The office shall notify the federal government, and courts and agents of courts, about domestic violence or child abuse under part D of title IV of the social security act, 42 USC 651 to 660 and 663 to 669b.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 209, Eff. Mar. 1, 1986;—Am. 1998, Act 112, Eff. June 30, 1998;—Am. 2004, Act 548, Imd. Eff. Jan. 3, 2005.

OFFICE OF CHILD SUPPORT ACT (EXCERPT) **Act 174 of 1971**

400.236 State disbursement unit; establishment; processes and procedures; collection; electronic disbursement.

Sec. 6. (1) The state disbursement unit is established as the direct responsibility of the office. The SDU shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical to receive and disburse support and fees.

(2) The SDU is the single location to which a payer or source of income subject to this section shall send a support or fee payment. The SDU shall disburse a support payment to the recipient of support within 2 business days after the SDU receives the support payment. Not less than twice each calendar month, the SDU shall disburse fees that it receives to the appropriate county treasurer or office of the friend of the court.

(3) If a payer or source of income attempts to make a support or fee payment to the SDU and the payment transaction fails due to nonsufficient funds, the SDU may take actions to collect from the payer or source of income the support or fee payment amount, plus an amount for the expense of those actions.

(4) By not later than 1 year after the effective date of the amendatory act that added this subsection, the SDU shall disburse support electronically, in not fewer than 3 counties in this state, to either the recipient of support's account in a financial institution or to a special account that may be accessed by the recipient of support by an electronic access card. By not later than 2 years after the effective date of the amendatory act that added this subsection, the SDU shall disburse support electronically either to the recipient of support's account in a financial institution or to a special account that may be accessed by the recipient of support by an electronic access card. This subsection does not apply under any of the following circumstances:

(a) If electronic transfer is not feasible to meet federal requirements on the disbursement of child support payments.

(b) If the support payment is from a source that is nonrecurring or that is not expected to continue in a 12-month period.

(c) The recipient of support is a person with a mental or physical disability that imposes a hardship in accessing an electronically transferred payment.

(d) The recipient of support is a person with a language or literacy barrier that imposes a hardship in accessing an electronically transferred payment.

(e) The recipient of support's home and work addresses are more than 30 miles from an automated teller machine and more than 30 miles from a financial institution where funds in the recipient's account may be accessed.

History: Add. 1999, Act 161, Imd. Eff. Nov. 3, 1999;—Am. 2004, Act 548, Imd. Eff. Jan. 3, 2005.

OFFICE OF CHILD SUPPORT ACT (EXCERPT) **Act 174 of 1971**

400.237 Transition schedule.

Sec. 7. (1) The department shall develop a schedule for the transition from receipt and disbursement of support and fees by offices of the friend of the court to centralized receipt and disbursement by the state disbursement unit. The schedule may provide for the transition to take place in stages so that, during the transition period, the SDU is responsible for the receipt and disbursement of the support and fee payments of less than all the payers and recipients of support whose cases are administered by a particular office of the friend of the court. In developing the schedule, the department shall consult with other state agencies and with local agencies.

(2) In accordance with section 9 of the friend of the court act, 1982 PA 294, MCL 552.509, and the transition schedule developed under subsection (1), SDU receipt and disbursement applies to the case of a

payer or recipient of support starting on the date specified in a notification to the office of the friend of the court, which administers the case, that the SDU is prepared to receive and disburse support and fees for the case or for a class of cases to which the case belongs. As of the date that SDU receipt and disbursement of support and fees applies to a particular support order, a provision in the order directing support and fees to be paid to an office of the friend of the court shall be considered to direct the payments to the SDU.

History: Add. 1999, Act 161, Imd. Eff. Nov. 3, 1999.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)

Act 174 of 1971

400.238 Disposition of money received as support payment; interest; duties of contractor; audit; disclosure of information.

Sec. 8. (1) While held by the state disbursement unit, money the SDU receives as a support payment is the money of the recipient of support, is not public revenue, and shall not be deposited in the state treasury. While held by the state disbursement unit, money the SDU receives as a support payment is not subject to levy, execution, garnishment, or offset.

(2) Interest that accrues on a payment after its receipt and before its disbursement is payable to the state general fund to offset program costs.

(3) If a contractor operates the state disbursement unit, the contractor is directly responsible to the office. The office shall not enter a contract for operation of the SDU until the state budget director approves each contract provision that governs the accounting system to be used by the contractor. In addition to auditing by a private sector accounting firm, the contractor operating the SDU is subject to audit by the state executive branch and by the auditor general or an independent public accounting firm appointed by the auditor general. The auditor general or an independent public accounting firm appointed by the auditor general shall conduct an audit of the SDU not less than 1 year, but within 2 years, after the effective date of the amendatory act that added this section and not less than every 2 years after that initial audit. The department shall cooperate with the auditor general.

(4) Except for disclosure in a manner authorized by law, rule, or regulation, a person shall not disclose information regarding a payer or recipient of support that is provided to the SDU for the purpose of receipt or disbursement of support or fees. A person that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(5) A contractor or subcontractor, or an officer or employee of a contractor or subcontractor, that operates the SDU who negligently discloses information regarding a payer or recipient of support is liable for actual damages or \$1,000.00, whichever is greater, plus costs and attorney fees. A contractor or subcontractor, or an officer or employee of a contractor or subcontractor, that operates the SDU who intentionally discloses information regarding a payer or recipient of support is liable for 3 times actual damages or \$3,000.00, whichever is greater, plus costs and attorney fees. Each negligent or intentional disclosure that gives rise to liability under this section is a separate cause of action for which separate damages may be awarded.

History: Add. 1999, Act 161, Imd. Eff. Nov. 3, 1999.

OFFICE OF CHILD SUPPORT ACT (EXCERPT)

Act 174 of 1971

400.239 Transition to centralized receipt and disbursement of support and fees.

Sec. 9. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 7, and modifications to that schedule as the department considers necessary.

History: Add. 1999, Act 161, Imd. Eff. Nov. 3, 1999;—Am. 2002, Act 564, Eff. Mar. 31, 2003.

MICHIGAN EMPLOYMENT SECURITY ACT (EXCERPT)

Act 1 of 1936 (Ex. Sess.)

421.11 Employment security commission; cooperation with federal agency; reports; compliance with federal regulations; "social security act" defined; disclosure of information; reciprocal agreements.

Sec. 11. (a) In the administration of this act, the commission shall cooperate with the appropriate agency of the United States under the social security act. The commission shall make reports, in a form and containing information as the appropriate agency of the United States may require, and shall comply with the provisions that the appropriate agency of the United States prescribes to assure the correctness and verification of the reports. The commission, subject to this act, shall comply with the regulations prescribed by the appropriate

agency of the United States relating to the receipt or expenditure of the sums that are allotted and paid to this state for the purpose of assisting in the administration of this act. As used in this section, "social security act" means the social security act, chapter 531, 49 Stat. 620.

(b)(1) Information obtained from any employing unit or individual pursuant to the administration of this act, and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or open to public inspection other than to public employees in the performance of their official duties under this act in any manner revealing the individual's or the employing unit's identity. However, all of the following apply:

(i) Information in the commission's possession that might affect a claim for worker's disability compensation under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, shall be available to interested parties, regardless of whether the commission is a party to an action or proceeding arising under that act.

(ii) Any information in the commission's possession that may affect a claim for benefits or a charge to an employer's experience account shall be available to interested parties.

(iii) Except as provided in this act, the information and determinations shall not be used in any action or proceeding before any court or administrative tribunal unless the commission is a party to or a complainant in the action or proceeding, or unless used for the prosecution of fraud, civil proceeding, or other legal proceeding in the programs indicated in subdivision (2).

(iv) Any report or statement, written or verbal, made by any person to the commission, any member of the commission, or to any person engaged in administering this act is a privileged communication, and a person, firm, or corporation shall not be held liable for slander or libel on account of a report or statement. The records and reports in the custody of the commission shall be available for examination by the employer or employee affected.

(v) Subject to restrictions that the commission prescribes by rule, information in the commission's possession may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices; the bureau of internal revenue of the United States department of the treasury; the bureau of the census of the economics and statistics administration of the United States department of commerce; or the social security administration of the United States department of health and human services.

(vi) Information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Subject to restrictions that the commission prescribes by rule, the commission may also make that information available to agencies of other states that are responsible for the administration of public assistance to unemployed workers, and to the departments of this state. Information so released shall be used only for purposes not inconsistent with the purposes of this act.

(vii) Upon request, the commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and the recipient's rights to further benefits under this act.

(viii) Subject to restrictions the commission prescribes, by rule or otherwise, the commission may also make information that it obtains available to colleges, universities, and public agencies of this state for use in connection with research projects of a public service nature. A person associated with those institutions or agencies shall not disclose the information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commission.

(ix) The commission may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered under this act, and may, in connection with the request, transmit the report or return to the comptroller of the currency of the United States as provided in section 3305(c) of the internal revenue code, 26 USC 3305.

(2) The commission shall disclose to qualified requesting agencies, upon request, with respect to an identified individual, information in its records pertaining to the individual's name; social security number; gross wages paid during each quarter; the name, address, and federal and state employer identification number of the individual's employer; any other wage information; whether an individual is receiving, has received, or has applied for unemployment benefits; the amount of unemployment benefits the individual is receiving or is entitled to receive; the individual's current or most recent home address; whether the individual has refused an offer of work and if so a description of the job offered including the terms, conditions, and rate of pay; and any other information which the qualified requesting agency considers useful in verifying eligibility for, and the amount of, benefits. For purposes of this subdivision, "qualified requesting agency" means any state or local child support enforcement agency responsible for enforcing child support obligations under a plan

approved under part d of title IV of the social security act, 42 USC 651 to 669b; the United States department of health and human services for purposes of establishing or verifying eligibility or benefit amounts under titles II and XVI of the social security act, 42 USC 401 to 434 and 42 USC 1381 to 1383f; the United States department of agriculture for the purposes of determining eligibility for, and amount of, benefits under the food stamp program established under the food stamp act of 1977, 7 USC 2011 to 2036; and any other state or local agency of this or any other state responsible for administering the following programs:

(i) The aid to families with dependent children program under part a of title IV of the social security act, 42 USC 601 to 619.

(ii) The medicaid program under title XIX of the social security act, 42 USC 1396 to 1396v.

(iii) The unemployment compensation program under section 3304 of the internal revenue code of 1954, 26 USC 3304.

(iv) The food stamp program under the food stamp act of 1977, 7 USC 2011 to 2036.

(v) Any state program under a plan approved under title I, X, XIV, or XVI of the social security act, 42 USC 301 to 306, 42 USC 1201 to 1206, 42 USC 1351 to 1355, and 42 USC 1381 to 1383f.

(vi) Any program administered under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

The information shall be disclosed only if the qualified requesting agency has executed an agreement with the commission to obtain the information and if the information is requested for the purpose of determining the eligibility of applicants for benefits, or the type and amount of benefits for which applicants are eligible, under any of the programs listed above or under title II and XVI of the social security act; for establishing and collecting child support obligations from, and locating individuals owing such obligations which are being enforced pursuant to a plan described in section 454 of the social security act, 42 USC 654; or for investigating or prosecuting alleged fraud under any of these programs.

The commission shall cooperate with the department of human services in establishing the computer data matching system authorized in section 83 of the social welfare act, 1939 PA 280, MCL 400.83, to transmit the information requested on at least a quarterly basis. The information shall not be released unless the qualified requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information.

In addition to the requirements of this section, except as later provided in this subdivision, all other requirements with respect to confidentiality of information obtained in the administration of this act shall apply to the use of the information by the officers and employees of the qualified requesting agencies, and the sanctions imposed under this act for improper disclosure of the information shall be applicable to those officers and employees. A qualified requesting agency may redisclose information only to the individual who is the subject of the information, an attorney or other duly authorized agent representing the individual if the information is needed in connection with a claim for benefits against the requesting agency, or any criminal or civil prosecuting authority acting for or on behalf of the requesting agency.

The commission is authorized to enter into an agreement with any qualified requesting agency for the purposes described in this subdivision. The agreement or agreements must comply with all federal laws and regulations applicable to such agreements.

(3) The commission shall enable the United States department of health and human services to obtain prompt access to any wage and unemployment benefit claims information, including any information that might be useful in locating an absent parent or an absent parent's employer, for purposes of section 453 of the social security act, 42 USC 653, in carrying out the child support enforcement program under title IV of that act. Access to the information shall not be provided unless the requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information.

(4) Upon request accompanied by presentation of a consent to the release of information signed by an individual, the commission shall disclose to the United States department of housing and urban development and any state or local public housing agency responsible for verifying an applicant's or participant's eligibility for, or level of benefits in, any housing assistance program administered by the United States department of housing and urban development, the name, address, wage information, whether an individual is receiving, has received, or has made application for unemployment benefits, and the amount of unemployment benefits the individual is receiving or is entitled to receive under this act. This information shall be used only to determine an individual's eligibility for benefits or the amount of benefits to which an individual is entitled under a housing assistance program of the United States department of housing and urban development. The information shall not be released unless the requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information. For purposes of this subsection, "public housing agency" means an agency described in section 3(b)(6) of the United States housing act of 1937, 42 USC 1437a.

(5) The commission may make available to the department of treasury information collected for the income and eligibility verification system begun on October 1, 1988 for the purpose of detection of potential tax fraud in other areas.

(c) The commission is authorized to enter into agreements with the appropriate agencies of other states or the federal government whereby potential rights to benefits accumulated under the unemployment compensation laws of other states or of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under plans that the commission finds will be fair and reasonable to all affected interests and will not result in substantial loss to the unemployment compensation fund.

(d)(1) The commission is authorized to enter into reciprocal agreements with the appropriate agencies of other states or of the federal government adjusting the collection and payment of contributions by employers with respect to employment not localized within this state.

(2) The commission is authorized to enter into reciprocal agreements with agencies of other states administering unemployment compensation, whereby contributions paid by an employer to any other state may be received by the other state as an agent acting for and on behalf of this state to the same extent as if the contributions had been paid directly to this state if the payment is remitted to this state. Contributions so received by another state shall be deemed contributions, required and paid under this act as of the date the contributions were received by the other state. The commission may collect contributions in a like manner for agencies of other states administering unemployment compensation and remit the contributions to the agencies under the terms of the reciprocal agreements.

(e) The commission may make the state's records relating to the administration of this act available and may furnish to the railroad retirement board or any other state or federal agency administering an unemployment compensation law, at the expense of that board, state, or agency, copies of the records as the railroad retirement board deems necessary for its purpose.

(f) The commission may cooperate with or enter into agreements with any agency of another state or of the United States charged with the administration of any unemployment insurance or public employment service law.

The commission may make investigations, secure and transmit information, make available services and facilities, and exercise other powers provided in this act with respect to the administration of this act as it deems necessary or appropriate to facilitate the administration of any unemployment compensation or public employment service law, and may accept and utilize information, services, and facilities made available to this state by the agency charged with the administration of any other unemployment compensation or public employment service law.

On request of an agency that administers an employment security law of another state or foreign government and that has found, in accordance with that law, that a claimant is liable to repay benefits received under that law, the commission may collect the amount of the benefits from the claimant to be refunded to the agency.

In any case in which under this subsection a claimant is liable to repay any amount to the agency of another state or foreign government, the amount may be collected by civil action in the name of the commission acting as agent for the agency. Court costs shall be paid or guaranteed by the agency of that state.

To the extent permissible under the laws and constitution of the United States, the commission is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this act and facilities and services provided under the unemployment compensation law of the Dominion of Canada may be utilized for the taking of claims and the payment of benefits under the unemployment compensation law of this state or under a similar law of the Dominion of Canada.

Any employer who is not a resident of this state and who exercises the privilege of having 1 or more individuals perform service for him or her within this state, and any resident employer who exercises that privilege and thereafter leaves this state, is considered to have appointed the secretary of state as his or her agent and attorney for the acceptance of process in any civil action under this act. In instituting the action, the commission shall cause process or notice to be filed with the secretary of state, and the service shall be sufficient and shall be of the same force and validity as if served upon the nonresident or absent employer personally within this state. The commission immediately shall send notice of the service of process or notice, together with a copy thereof, by registered mail, return receipt requested, to the employer at his or her last known address. The return receipt, the commission's affidavit of compliance with this section, and a copy of the notice of service shall be attached to the original of the process filed in the court in which the civil action is pending.

The courts of this state shall recognize and enforce liabilities, as provided in this act, for unemployment compensation contributions, penalties, and interest imposed by other states which extend a like comity to this state.

The attorney general may commence action in the appropriate court of any other state or any other jurisdiction of the United States by and in the name of the commission to collect unemployment

compensation contributions, penalties, and interest finally determined, redetermined, or decided under this act to be legally due this state. The officials of other states which extend a like comity to this state may sue in the courts of this state for the collection of unemployment compensation contributions, penalties, and interest, the liability for which has been similarly established under the laws of the other state or jurisdiction. A certificate by the secretary of another state under the great seal of that state attesting the authority of the official or officials to collect unemployment compensation contributions, penalties, and interest is conclusive evidence of that authority.

The attorney general may commence action in this state as agent for or on behalf of any other state to enforce judgments and established liabilities for unemployment compensation taxes or contributions, penalties, and interest due the other state if the other state extends a like comity to this state.

(g) The commission may also enter into reciprocal agreements with the appropriate and authorized agencies of other states or of the federal government whereby remuneration and services, that determine entitlement to benefits under the unemployment compensation law of another state or of the federal government, are considered wages and employment for the purposes of sections 27 and 46, if the other state agency or agency of the federal government has agreed to reimburse the fund for that portion of benefits paid under this act upon the basis of the remuneration and services as the commission finds will be fair and reasonable as to all affected interests. A reciprocal agreement may provide that wages and employment, that determine entitlement to benefits under this act, are considered wages or services on the basis of which unemployment compensation under the law of another state or of the federal government is payable; may provide that services performed by an individual for a single employing unit for which services are customarily performed by the individual in more than 1 state are considered services performed entirely within any 1 of the states in which any part of the individual's service is performed, in which the individual has his or her residence, or in which the employing unit maintains a place of business, if there is in effect as to those services, an election approved by the agency charged with the administration of the state's unemployment compensation law, pursuant to which all the services performed by the individual for the employing unit are considered to be performed entirely within the state; and may provide that the commission will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any other state or of the federal government upon the basis of employment and wages, as the commission finds will be fair and reasonable as to all affected interests. Reimbursements payable under this subsection are considered benefits for the purpose of limiting duration of benefits and for the purposes of sections 20(a) and 26, and the payments shall be charged to the contributing employer's experience account for the purposes of sections 17, 18, 19, and 20, or the reimbursing employer's account under section 13c, 13g, 13i, or 13l, as applicable. Benefits paid under a combined wage plan shall be allocated and charged to each employer involved in the quarter in which the paying state requires reimbursement. Benefits charged to this state shall be allocated to each employer of this state who has employed the claimant during the base period of the paying state in the same ratio that the wages earned by the claimant during the base period of the paying state in the employ of the employer bears to the total amount of wages earned by the claimant in the base period of the paying state in the employ of all employers of the state. The commission is authorized to make to other state or federal agencies and receive from other state or federal agencies reimbursements from or to the fund, in accordance with arrangements made pursuant to this section.

(h) The commission may enter into any agreement necessary to cooperate with any agency of the United States charged with the administration of any program for the payment of primary or supplemental benefits to individuals recently discharged from the military services of the United States, and to assist in the establishing of eligibility and in the payments of benefits under those programs, and for those purposes may accept and administer funds made available by the federal government and may accept and exercise any delegated function under those programs. The commission shall not enter into any agreement providing for, or exercise any function connected with, the disbursement of the state's unemployment trust fund for purposes not authorized by this act.

(i) The commission may enter into agreements with the appropriate agency of the United States under which, in accordance with the laws of the United States, the commission, as agent of the United States or from funds provided by the United States, provides for the payment of unemployment compensation or unemployment allowances of any kind, including the payment of any benefits and allowances that are made available for manpower development, training, retraining, readjustment, and relocation. The commission may receive and disburse funds from the United States or any appropriate agency of the United States in accordance with any such agreements.

If the federal enactment providing for unemployment compensation, training allowance, or relocation payments requires joint federal-state financing of such payments, the commission may participate in the

programs by using funds appropriated by the legislature to the extent provided by the legislature for such programs.

(j) The commission shall participate in any arrangement which provides for the payment of compensation on the basis of combining an individual's wages and employment covered under this act with his or her wages and employment covered under the unemployment compensation laws of other states, if the arrangement is approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation. An arrangement shall include provisions for both of the following:

(i) Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under 2 or more state unemployment compensation laws.

(ii) Avoiding the duplicate use of wages and employment as a result of the combining.

(k) In a proceeding before any court, the commission and the state shall be represented by the attorney general of this state or attorneys designated by the attorney general. Only the attorney general or other attorneys designated by the attorney general shall act as legal counsel for the commission.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.11;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1965, Act 398, Imd. Eff. Oct. 26, 1965;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1982, Act 248, Imd. Eff. Sept. 23, 1982;—Am. 1985, Act 197, Imd. Eff. Dec. 26, 1985;—Am. 1989, Act 178, Imd. Eff. Aug. 23, 1989;—Am. 1993, Act 279, Imd. Eff. Dec. 28, 1993;—Am. 1995, Act 25, Eff. Mar. 28, 1996;—Am. 2005, Act 182, Imd. Eff. Oct. 20, 2005.

Administrative rules: R 421.10 of the Michigan Administrative Code.

MICHIGAN EMPLOYMENT SECURITY ACT (EXCERPT)

Act 1 of 1936 (Ex. Sess.)

421.27 Payment of benefits.

Sec. 27. (a)(1) When a determination, redetermination, or decision is made that benefits are due an unemployed individual, the benefits shall become payable from the fund and continue to be payable to the unemployed individual, subject to the limitations imposed by the individual's monetary entitlement, if the individual continues to be unemployed and to file claims for benefits, until the determination, redetermination, or decision is reversed, a determination, redetermination, or decision on a new issue holding the individual disqualified or ineligible is made, or, for benefit years beginning before the conversion date prescribed in section 75, a new separation issue arises resulting from subsequent work.

(2) Benefits shall be paid in person or by mail through employment offices in accordance with rules promulgated by the commission.

(b)(1) Subject to subsection (f), the weekly benefit rate for an individual, with respect to benefit years beginning before the conversion date prescribed in section 75, shall be 67% of the individual's average after tax weekly wage, except that the individual's maximum weekly benefit rate shall not exceed \$300.00. However, with respect to benefit years beginning after the conversion date as prescribed in section 75, the individual's weekly benefit rate shall be 4.1% of the individual's wages paid in the calendar quarter of the base period in which the individual was paid the highest total wages, plus \$6.00 for each dependent as defined in subdivision (3), up to a maximum of 5 dependents, claimed by the individual at the time the individual files a new claim for benefits, except that the individual's maximum weekly benefit rate shall not exceed \$300.00 before the effective date of the amendatory act that added section 13/and \$362.00 for claims filed on and after the effective date of the amendatory act that added section 13/. The weekly benefit rate for an individual claiming benefits on and after the effective date of the amendatory act that added section 13/shall be recalculated subject to the \$362.00 maximum weekly benefit rate. The unemployment agency shall establish the procedures necessary to verify the number of dependents claimed. If a person fraudulently claims a dependent, that person is subject to the penalties set forth in sections 54 and 54c. With respect to benefit years beginning on or after October 2, 1983, the weekly benefit rate shall be adjusted to the next lower multiple of \$1.00.

(2) For benefit years beginning before the conversion date prescribed in section 75, the state average weekly wage for a calendar year shall be computed on the basis of the 12 months ending the June 30 immediately preceding that calendar year. The commission shall prepare a table of weekly benefit rates based on an "average after tax weekly wage" calculated by subtracting, from an individual's average weekly wage as determined in accordance with section 51, a reasonable approximation of the weekly amount required to be withheld by the employer from the remuneration of the individual based on dependents and exemptions for income taxes under chapter 24 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3401 to 3406, and

under section 351 of the income tax act of 1967, 1967 PA 281, MCL 206.351, and for old age and survivor's disability insurance taxes under the federal insurance contributions act, chapter 21 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3128. For purposes of applying the table to an individual's claim, a dependent shall be as defined in subdivision (3). The table applicable to an individual's claim shall be the table reflecting the number of dependents claimed by the individual under subdivision (3). The commission shall adjust the tables based on changes in withholding schedules published by the United States department of treasury, internal revenue service, and by the department of treasury. The number of dependents allowed shall be determined with respect to each week of unemployment for which an individual is claiming benefits.

(3) For benefit years beginning before the conversion date prescribed in section 75, a dependent means any of the following persons who is receiving and for at least 90 consecutive days immediately preceding the week for which benefits are claimed, or, in the case of a dependent husband, wife, or child, for the duration of the marital or parental relationship, if the relationship has existed less than 90 days, has received more than half the cost of his or her support from the individual claiming benefits:

(a) A child, including stepchild, adopted child, or grandchild of the individual who is under 18 years of age, or 18 years of age or over if, because of physical or mental infirmity, the child is unable to engage in a gainful occupation, or is a full-time student as defined by the particular educational institution, at a high school, vocational school, community or junior college, or college or university and has not attained the age of 22.

(b) The husband or wife of the individual.

(c) The legal father or mother of the individual if that parent is either more than 65 years of age or is permanently disabled from engaging in a gainful occupation.

(d) A brother or sister of the individual if the brother or sister is orphaned or the living parents are dependent parents of an individual, and the brother or sister is under 18 years of age, or 18 years of age or over if, because of physical or mental infirmity, the brother or sister is unable to engage in a gainful occupation, or is a full-time student as defined by the particular educational institution, at a high school, vocational school, community or junior college, or college or university and is less than 22 years of age.

(4) For benefit years beginning after the conversion date prescribed in section 75, a dependent means any of the following persons who received for at least 90 consecutive days immediately preceding the first week of the benefit year or, in the case of a dependent husband, wife, or child, for the duration of the marital or parental relationship if the relationship existed less than 90 days before the beginning of the benefit year, has received more than 1/2 the cost of his or her support from the individual claiming the benefits:

(a) A child, including stepchild, adopted child, or grandchild of the individual who is under 18 years of age, or 18 years of age and over if, because of physical or mental infirmity, the child is unable to engage in a gainful occupation, or is a full-time student as defined by the particular educational institution, at a high school, vocational school, community or junior college, or college or university and has not attained the age of 22.

(b) The husband or wife of the individual.

(c) The legal father or mother of the individual if that parent is either more than 65 years of age or is permanently disabled from engaging in a gainful occupation.

(d) A brother or sister of the individual if the brother or sister is orphaned or the living parents are dependent parents of an individual, and the brother or sister is under 18 years of age, or 18 years of age and over if, because of physical or mental infirmity, the brother or sister is unable to engage in a gainful occupation, or is a full-time student as defined by the particular educational institution, at a high school, vocational school, community or junior college, or college or university and is less than 22 years of age.

(5) For benefit years beginning before the conversion date prescribed in section 75, dependency status of a dependent, child or otherwise, once established or fixed in favor of an individual continues during the individual's benefit year until terminated. Dependency status of a dependent terminates at the end of the week in which the dependent ceases to be an individual described in subdivision (3)(a), (b), (c), or (d) because of age, death, or divorce. For benefit years beginning after the conversion date prescribed in section 75, the number of dependents established for an individual at the beginning of the benefit year shall remain in effect during the entire benefit year.

(6) For benefit years beginning before the conversion date prescribed in section 75, failure on the part of an individual, due to misinformation or lack of information, to furnish all information material for determination of the number of the individual's dependents when the individual files a claim for benefits with respect to a week shall be considered good cause for the issuance of a redetermination as to the amount of benefits based on the number of the individual's dependents as of the beginning date of that week. Dependency status of a dependent, child or otherwise, once established or fixed in favor of a person is not transferable to or usable by another person with respect to the same week.

For benefit years beginning after the conversion date as prescribed in section 75, failure on the part of an individual, due to misinformation or lack of information, to furnish all information material for determination of the number of the individual's dependents shall be considered good cause for the issuance of a redetermination as to the amount of benefits based on the number of the individual's dependents as of the beginning of the benefit year.

(c) Subject to subsection (f), all of the following apply to eligible individuals:

(1) Each eligible individual shall be paid a weekly benefit rate with respect to the week for which the individual earns or receives no remuneration. Notwithstanding the definition of week in section 50, if within 2 consecutive weeks in which an individual was not unemployed within the meaning of section 48 there was a period of 7 or more consecutive days for which the individual did not earn or receive remuneration, that period shall be considered a week for benefit purposes under this act if a claim for benefits for that period is filed not later than 30 days after the end of the period.

(2) Each eligible individual shall have his or her weekly benefit rate reduced with respect to each week in which the individual earns or receives remuneration at the rate of 50 cents for each whole \$1.00 of remuneration earned or received during that week.

(3) An individual who receives or earns partial remuneration may not receive a total of benefits and earnings that exceeds 1-1/2 times his or her weekly benefit amount. For each dollar of total benefits and earnings that exceeds 1-1/2 times the individual's weekly benefit amount, benefits shall be reduced by \$1.00.

(4) If the reduction in a claimant's benefit rate for a week in accordance with subparagraph (2) or (3) results in a benefit rate greater than zero for that week, the claimant's balance of weeks of benefit payments will be reduced by 1 week.

(5) All remuneration for work performed during a shift that terminates on 1 day but that began on the preceding day shall be considered to have been earned by the eligible individual on the preceding day.

(d) For benefit years beginning before the conversion date prescribed in section 75, and subject to subsection (f) and this subsection, the amount of benefits to which an individual who is otherwise eligible is entitled during a benefit year from an employer with respect to employment during the base period is the amount obtained by multiplying the weekly benefit rate with respect to that employment by 3/4 of the number of credit weeks earned in the employment. For the purpose of this subsection and section 20(c), if the resultant product is not an even multiple of 1/2 the weekly benefit rate, the product shall be raised to an amount equal to the next higher multiple of 1/2 the weekly benefit rate, and, for an individual who was employed by only 1 employer in the individual's base period and earned 34 credit weeks with that employer, the product shall be raised to the next higher multiple of the weekly benefit rate. The maximum amount of benefits payable to an individual within a benefit year, with respect to employment by an employer, shall not exceed 26 times the weekly benefit rate with respect to that employment. The maximum amount of benefits payable to an individual within a benefit year shall not exceed the amount to which the individual would be entitled for 26 weeks of unemployment in which remuneration was not earned or received. The limitation of total benefits set forth in this subsection does not apply to claimants declared eligible for training benefits in accordance with subsection (g). For benefit years beginning after the conversion date prescribed in section 75, and subject to subsection (f) and this subsection, the maximum benefit amount payable to an individual in a benefit year for purposes of this section and section 20(c) is the number of weeks of benefits payable to an individual during the benefit year, multiplied by the individual's weekly benefit rate. The number of weeks of benefits payable to an individual shall be calculated by taking 43% of the individual's base period wages and dividing the result by the individual's weekly benefit rate. If the quotient is not a whole or half number, the result shall be rounded down to the nearest half number. However, not more than 26 weeks of benefits or less than 14 weeks of benefits shall be payable to an individual in a benefit year. The limitation of total benefits set forth in this subsection shall not apply to claimants declared eligible for training benefits in accordance with subsection (g).

(e) When a claimant dies or is judicially declared insane or mentally incompetent, unemployment compensation benefits accrued and payable to that person for weeks of unemployment before death, insanity, or incompetency, but not paid, shall become due and payable to the person who is the legal heir or guardian of the claimant or to any other person found by the commission to be equitably entitled to the benefits by reason of having incurred expense in behalf of the claimant for the claimant's burial or other necessary expenses.

(f)(1) For benefit years beginning before the conversion date prescribed in section 75, and notwithstanding any inconsistent provisions of this act, the weekly benefit rate of each individual who is receiving or will receive a "retirement benefit", as defined in subdivision (4), shall be adjusted as provided in subparagraphs (a), (b), and (c). However, an individual's extended benefit account and an individual's weekly extended benefit rate under section 64 shall be established without reduction under this subsection unless subdivision (5) is in effect. Except as otherwise provided in this subsection, all other provisions of this act continue to

apply in connection with the benefit claims of those retired persons.

(a) If and to the extent that unemployment benefits payable under this act would be chargeable to an employer who has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount equal to or larger than the claimant's weekly benefit rate as otherwise established under this act, the claimant shall not receive unemployment benefits that would be chargeable to the employer under this act.

(b) If and to the extent that unemployment benefits payable under this act would be chargeable to an employer who has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount less than the claimant's weekly benefit rate as otherwise established under this act, then the weekly benefit rate otherwise payable to the claimant and chargeable to the employer under this act shall be reduced by an amount equal to the pro rata weekly amount, adjusted to the next lower multiple of \$1.00, which the claimant is receiving or will receive as a retirement benefit.

(c) If the unemployment benefit payable under this act would be chargeable to an employer who has not contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit, then the weekly benefit rate of the claimant as otherwise established under this act shall not be reduced due to receipt of a retirement benefit.

(d) If the unemployment benefit payable under this act is computed on the basis of multiemployer credit weeks and a portion of the benefit is allocable under section 20(e) to an employer who has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit, the adjustments required by subparagraph (a) or (b) apply only to that portion of the weekly benefit rate that would otherwise be allocable and chargeable to the employer.

(2) If an individual's weekly benefit rate under this act was established before the period for which the individual first receives a retirement benefit, any benefits received after a retirement benefit becomes payable shall be determined in accordance with the formula stated in this subsection.

(3) When necessary to assure prompt payment of benefits, the commission shall determine the pro rata weekly amount yielded by an individual's retirement benefit based on the best information currently available to it. In the absence of fraud, a determination shall not be reconsidered unless it is established that the individual's actual retirement benefit in fact differs from the amount determined by \$2.00 or more per week. The reconsideration shall apply only to benefits as may be claimed after the information on which the reconsideration is based was received by the commission.

(4)(a) As used in this subdivision, "retirement benefit" means a benefit, annuity, or pension of any type or that part thereof that is described in subparagraph (b) that is:

(i) Provided as an incident of employment under an established retirement plan, policy, or agreement, including federal social security if subdivision (5) is in effect.

(ii) Payable to an individual because the individual has qualified on the basis of attained age, length of service, or disability, whether or not the individual retired or was retired from employment. Amounts paid to individuals in the course of liquidation of a private pension or retirement fund because of termination of the business or of a plant or department of the business of the employer involved shall not be considered to be retirement benefits.

(b) If a benefit as described in subparagraph (a) is payable or paid to the individual under a plan to which the individual has contributed:

(i) Less than half of the cost of the benefit, then only half of the benefit shall be treated as a retirement benefit.

(ii) Half or more of the cost of the benefit, then none of the benefit shall be treated as a retirement benefit.

(c) The burden of establishing the extent of an individual's contribution to the cost of his or her retirement benefit for the purpose of subparagraph (b) is upon the employer who has contributed to the plan under which a benefit is provided.

(5) Notwithstanding any other provision of this subsection, for any week that begins after March 31, 1980, and with respect to which an individual is receiving a governmental or other pension and claiming unemployment compensation, the weekly benefit amount payable to the individual for those weeks shall be reduced, but not below zero, by the entire prorated weekly amount of any governmental or other pension, retirement or retired pay, annuity, or any other similar payment that is based on any previous work of the individual. This reduction shall be made only if it is required as a condition for full tax credit against the tax imposed by the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311.

(6) For benefit years beginning after the conversion date prescribed in section 75, notwithstanding any inconsistent provisions of this act, the weekly benefit rate of each individual who is receiving or will receive a

retirement benefit, as defined in subdivision (4), shall be adjusted as provided in subparagraphs (a), (b), and (c). However, an individual's extended benefit account and an individual's weekly extended benefit rate under section 64 shall be established without reduction under this subsection, unless subdivision (5) is in effect. Except as otherwise provided in this subsection, all the other provisions of this act shall continue to be applicable in connection with the benefit claims of those retired persons.

(a) If any base period or chargeable employer has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount equal to or larger than the claimant's weekly benefit rate as otherwise established under this act, the claimant shall not receive unemployment benefits.

(b) If any base period employer or chargeable employer has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount less than the claimant's weekly benefit rate as otherwise established under this act, then the weekly benefit rate otherwise payable to the claimant shall be reduced by an amount equal to the pro rata weekly amount, adjusted to the next lower multiple of \$1.00, which the claimant is receiving or will receive as a retirement benefit.

(c) If no base period or separating employer has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit, then the weekly benefit rate of the claimant as otherwise established under this act shall not be reduced due to receipt of a retirement benefit.

(g) Notwithstanding any other provision of this act, an individual pursuing vocational training or retraining pursuant to section 28(2) who has exhausted all benefits available under subsection (d) may be paid for each week of approved vocational training pursued beyond the date of exhaustion a benefit amount in accordance with subsection (c), but not in excess of the individual's most recent weekly benefit rate. However, an individual shall not be paid training benefits totaling more than 18 times the individual's most recent weekly benefit rate. The expiration or termination of a benefit year shall not stop or interrupt payment of training benefits if the training for which the benefits were granted began before expiration or termination of the benefit year.

(h) A payment of accrued unemployment benefits shall not be made to an eligible individual or in behalf of that individual as provided in subsection (e) more than 6 years after the ending date of the benefit year covering the payment or 2 calendar years after the calendar year in which there is final disposition of a contested case, whichever is later.

(i) Benefits based on service in employment described in section 42(8), (9), and (10) are payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to this act, except that:

(1) With respect to service performed in an instructional, research, or principal administrative capacity for an institution of higher education as defined in section 53(2), or for an educational institution other than an institution of higher education as defined in section 53(3), benefits shall not be paid to an individual based on those services for any week of unemployment beginning after December 31, 1977 that commences during the period between 2 successive academic years or during a similar period between 2 regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to an individual if the individual performs the service in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform service in an instructional, research, or principal administrative capacity for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms, whether or not the terms are successive.

(2) With respect to service performed in other than an instructional, research, or principal administrative capacity for an institution of higher education as defined in section 53(2) or for an educational institution other than an institution of higher education as defined in section 53(3), benefits shall not be paid based on those services for any week of unemployment beginning after December 31, 1977 that commences during the period between 2 successive academic years or terms to any individual if that individual performs the service in the first of the academic years or terms and if there is a reasonable assurance that the individual will perform the service for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms.

(3) With respect to any service described in subdivision (1) or (2), benefits shall not be paid to an individual based upon service for any week of unemployment that commences during an established and customary vacation period or holiday recess if the individual performs the service in the period immediately before the vacation period or holiday recess and there is a contract or reasonable assurance that the individual will perform the service in the period immediately following the vacation period or holiday recess.

(4) If benefits are denied to an individual for any week solely as a result of subdivision (2) and the individual was not offered an opportunity to perform in the second academic year or term the service for which reasonable assurance had been given, the individual is entitled to a retroactive payment of benefits for each week for which the individual had previously filed a timely claim for benefits. An individual entitled to benefits under this subdivision may apply for those benefits by mail in accordance with R 421.210 as promulgated by the commission.

(5) Benefits based upon services in other than an instructional, research, or principal administrative capacity for an institution of higher education shall not be denied for any week of unemployment commencing during the period between 2 successive academic years or terms solely because the individual had performed the service in the first of the academic years or terms and there is reasonable assurance that the individual will perform the service for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms, unless a denial is required as a condition for full tax credit against the tax imposed by the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311.

(6) For benefit years established before the conversion date prescribed in section 75, and notwithstanding subdivisions (1), (2), and (3), the denial of benefits does not prevent an individual from completing qualifying weeks in accordance with section 29(3) nor does the denial prevent an individual from receiving benefits based on service with an employer other than an educational institution for any week of unemployment occurring between academic years or terms, whether or not successive, or during an established and customary vacation period or holiday recess, even though the employer is not the most recent chargeable employer in the individual's base period. However, in that case section 20(b) applies to the sequence of benefit charging, except for the employment with the educational institution, and section 50(b) applies to the calculation of credit weeks. When a denial of benefits under subdivision (1) no longer applies, benefits shall be charged in accordance with the normal sequence of charging as provided in section 20(b).

(7) For benefit years beginning after the conversion date prescribed in section 75, and notwithstanding subdivisions (1), (2), and (3), the denial of benefits shall not prevent an individual from completing qualifying weeks in accordance with section 29(3) nor shall the denial prevent an individual from receiving benefits based on service with another base period employer other than an educational institution for any week of unemployment occurring between academic years or terms, whether or not successive, or during an established and customary vacation period or holiday recess. However, when benefits are paid based on service with 1 or more base period employers other than an educational institution, the individual's weekly benefit rate shall be calculated in accordance with subsection (b)(1) but during the denial period the individual's weekly benefit payment shall be reduced by the portion of the payment attributable to base period wages paid by an educational institution and the account or experience account of the educational institution shall not be charged for benefits payable to the individual. When a denial of benefits under subdivision (1) is no longer applicable, benefits shall be paid and charged on the basis of base period wages with each of the base period employers including the educational institution.

(8) For the purposes of this subsection, "academic year" means that period, as defined by the educational institution, when classes are in session for that length of time required for students to receive sufficient instruction or earn sufficient credit to complete academic requirements for a particular grade level or to complete instruction in a noncredit course.

(9) In accordance with subdivisions (1), (2), and (3), benefits for any week of unemployment shall be denied to an individual who performed services described in subdivision (1), (2), or (3) in an educational institution while in the employ of an educational service agency. For the purpose of this subdivision, "educational service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing the services to 1 or more educational institutions.

(j) Benefits shall not be paid to an individual on the basis of any base period services, substantially all of which consist of participating in sports or athletic events or training or preparing to participate, for a week that commences during the period between 2 successive sport seasons or similar periods if the individual performed the services in the first of the seasons or similar periods and there is a reasonable assurance that the individual will perform the services in the later of the seasons or similar periods.

(k)(1) Benefits shall not be payable on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for the purpose of performing the services, or was permanently residing in the United States under color of law at the time the services were performed, including an alien who was lawfully present in the United States under section 212(d)(5) of the immigration and nationality act, chapter 477, 66 Stat. 182, 8 U.S.C. 1182.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are payable because of their alien status are uniformly required from all applicants for benefits.

(3) Where an individual whose application for benefits would otherwise be approved, a determination that benefits to that individual are not payable because of the individual's alien status shall not be made except upon a preponderance of the evidence.

(m)(1) An individual filing a new claim for unemployment compensation under this act, at the time of filing the claim, shall disclose whether the individual owes child support obligations as defined in this subsection. If an individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commission shall notify the state or local child support enforcement agency enforcing the obligation that the individual has been determined to be eligible for unemployment compensation.

(2) Notwithstanding section 30, the commission shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations by using whichever of the following methods results in the greatest amount:

(a) The amount, if any, specified by the individual to be deducted and withheld under this subdivision.

(b) The amount, if any, determined pursuant to an agreement submitted to the commission under section 454(19)(B)(i) of part D of title IV of the social security act, 42 U.S.C. 654, by the state or local child support enforcement agency.

(c) Any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to legal process, as that term is defined in section 462(e) of part D of title IV of the social security act, 42 U.S.C. 662, properly served upon the commission.

(3) The amount of unemployment compensation subject to deduction under subdivision (2) is that portion that remains payable to the individual after application of the recoupment provisions of section 62(a) and the reduction provisions of subsections (c) and (f).

(4) Any amount deducted and withheld under subdivision (2) shall be paid by the commission to the appropriate state or local child support enforcement agency.

(5) Any amount deducted and withheld under subdivision (2) shall be treated for all purposes as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

(6) This subsection applies only if the state or local child support enforcement agency agrees in writing to reimburse and does reimburse the commission for the administrative costs incurred by the commission under this subsection that are attributable to child support obligations being enforced by the state or local child support enforcement agency. The administrative costs incurred shall be determined by the commission. The commission, in its discretion, may require payment of administrative costs in advance.

(7) As used in this subsection:

(a) "Unemployment compensation", for purposes of subdivisions (1) through (5), means any compensation payable under this act, including amounts payable by the commission pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(b) "Child support obligations" includes only obligations that are being enforced pursuant to a plan described in section 454 of part D of title IV of the social security act, 42 U.S.C. 654, that has been approved by the secretary of health and human services under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 660, and 663 to 669b.

(c) "State or local child support enforcement agency" means any agency of this state or a political subdivision of this state operating pursuant to a plan described in subparagraph (b).

(n) Subsection (i)(2) applies to services performed by school bus drivers employed by a private contributing employer holding a contractual relationship with an educational institution, but only if at least 75% of the individual's base period wages with that employer are attributable to services performed as a school bus driver.

(o)(1) For weeks of unemployment beginning after July 1, 1996, unemployment benefits based on services by a seasonal worker performed in seasonal employment shall be payable only for weeks of unemployment that occur during the normal seasonal work period. Benefits shall not be paid based on services performed in seasonal employment for any week of unemployment beginning after March 28, 1996 that begins during the period between 2 successive normal seasonal work periods to any individual if that individual performs the service in the first of the normal seasonal work periods and if there is a reasonable assurance that the individual will perform the service for a seasonal employer in the second of the normal seasonal work periods. If benefits are denied to an individual for any week solely as a result of this subsection and the individual is not offered an opportunity to perform in the second normal seasonal work period for which reasonable assurance of employment had been given, the individual is entitled to a retroactive payment of

benefits under this subsection for each week that the individual previously filed a timely claim for benefits. An individual may apply for any retroactive benefits under this subsection in accordance with R 421.210 of the Michigan administrative code.

(2) Not less than 20 days before the estimated beginning date of a normal seasonal work period, an employer may apply to the commission in writing for designation as a seasonal employer. At the time of application, the employer shall conspicuously display a copy of the application on the employer's premises. Within 90 days after receipt of the application, the commission shall determine if the employer is a seasonal employer. A determination or redetermination of the commission concerning the status of an employer as a seasonal employer, or a decision of a referee or the board of review, or of the courts of this state concerning the status of an employer as a seasonal employer, which has become final, together with the record thereof, may be introduced in any proceeding involving a claim for benefits, and the facts found and decision issued in the determination, redetermination, or decision shall be conclusive unless substantial evidence to the contrary is introduced by or on behalf of the claimant.

(3) If the employer is determined to be a seasonal employer, the employer shall conspicuously display on its premises a notice of the determination and the beginning and ending dates of the employer's normal seasonal work periods. The notice shall be furnished by the commission. The notice shall additionally specify that an employee must timely apply for unemployment benefits at the end of a first seasonal work period to preserve his or her right to receive retroactive unemployment benefits in the event that he or she is not reemployed by the seasonal employer in the second of the normal seasonal work periods.

(4) The commission may issue a determination terminating an employer's status as a seasonal employer on the commission's own motion for good cause, or upon the written request of the employer. A termination determination under this subdivision terminates an employer's status as a seasonal employer, and shall become effective on the beginning date of the normal seasonal work period that would have immediately followed the date the commission issues the determination. A determination under this subdivision is subject to review in the same manner and to the same extent as any other determination under this act.

(5) An employer whose status as a seasonal employer is terminated under subdivision (4) may not reapply for a seasonal employer status determination until after a regularly recurring normal seasonal work period has begun and ended.

(6) If a seasonal employer informs an employee who received assurance of being rehired that, despite the assurance, the employee will not be rehired at the beginning of the employer's next normal seasonal work period, this subsection shall not prevent the employee from receiving unemployment benefits in the same manner and to the same extent he or she would receive benefits under this act from an employer who has not been determined to be a seasonal employer.

(7) A successor of a seasonal employer is considered to be a seasonal employer unless the successor provides the commission, within 120 days after the transfer, with a written request for termination of its status as a seasonal employer in accordance with subdivision (4).

(8) At the time an employee is hired by a seasonal employer, the employer shall notify the employee in writing whether the employee will be a seasonal worker. The employer shall provide the worker with written notice of any subsequent change in the employee's status as a seasonal worker. If an employee of a seasonal employer is denied benefits because that employee is a seasonal worker, the employee may contest that designation in accordance with section 32a.

(9) As used in this subsection:

(a) "Construction industry" means the work activity designated in sector group 23 — construction of the North American classification system — United States office of management and budget, 1997 edition.

(b) "Normal seasonal work period" means that period or those periods of time determined pursuant to rules promulgated by the commission during which an individual is employed in seasonal employment.

(c) "Seasonal employment" means the employment of 1 or more individuals primarily hired to perform services in an industry, other than the construction industry, that does either of the following:

(1) Customarily operates during regularly recurring periods of 26 weeks or less in any 52-consecutive-week period.

(2) Customarily employs at least 50% of its employees for regularly recurring periods of 26 weeks or less within a period of 52 consecutive weeks.

(d) "Seasonal employer" means an employer, other than an employer in the construction industry, who applies to the commission for designation as a seasonal employer and who the commission determines to be an employer whose operations and business are substantially engaged in seasonal employment.

(e) "Seasonal worker" means a worker who has been paid wages by a seasonal employer for work performed only during the normal seasonal work period.

(10) If this subsection is found by the United States department of labor to be contrary to the federal unemployment tax act, chapter 23 of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, or the social security act, chapter 531, 49 Stat. 620, and if conformity with the federal law is required as a condition for full tax credit against the tax imposed under the federal unemployment tax act or as a condition for receipt by the commission of federal administrative grant funds under the social security act, this subsection shall be invalid.

(p) Benefits shall not be paid to an individual based upon his or her services as a school crossing guard for any week of unemployment that begins between 2 successive academic years or terms, if that individual performs the services of a school crossing guard in the first of the academic years or terms and has a reasonable assurance that he or she will perform those services in the second of the academic years or terms.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1942, 2nd Ex. Sess., Act 18, Imd. Eff. Feb. 27, 1942;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1945, Act 335, Imd. Eff. May 29, 1945;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.27;—Am. 1949, Act 282, Imd. Eff. June 11, 1949;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1954, Ex. Sess., Act 1, Imd. Eff. Aug. 20, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1962, Act 196, Eff. Mar. 28, 1963;—Am. 1963, Act 226, Eff. Sept. 6, 1963;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1966, Act 226, Imd. Eff. July 11, 1966;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970;—Am. 1970, Act 128, Imd. Eff. July 27, 1970;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 11, Imd. Eff. Feb. 15, 1974;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1975, Act 42, Imd. Eff. May 12, 1975;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1980, Act 231, Imd. Eff. July 20, 1980;—Am. 1980, Act 358, Eff. Mar. 1, 1981;—Am. 1982, Act 247, Imd. Eff. Sept. 23, 1982;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 219, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 172, Imd. Eff. June 29, 1984;—Am. 1993, Act 281, Imd. Eff. Dec. 28, 1993;—Am. 1993, Act 311, Imd. Eff. Dec. 29, 1993;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1995, Act 25, Eff. Mar. 28, 1996;—Am. 1995, Act 181, Eff. Mar. 28, 1996;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002.

MICHIGAN EMPLOYMENT SECURITY ACT (EXCERPT)

Act 1 of 1936 (Ex. Sess.)

421.27b Deducting and withholding income tax from unemployment benefits.

Sec. 27b. (1) Beginning January 1, 1997, an individual filing a claim for unemployment benefits that establishes a new benefit year shall, at the time of filing the claim, be advised of all of the following:

- (a) That unemployment benefits are subject to federal and state income tax.
- (b) That some taxpayers are required to make estimated tax payments.
- (c) That the individual may elect to have both of the following deducted and withheld from his or her unemployment compensation payments:

(i) Federal income tax in the amount specified under subchapter A of chapter 24 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3401 to 3406.

(ii) Effective with new claims filed on or after January 1, 1998, state income tax as provided in section 351 of the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being section 206.351 of the Michigan Compiled Laws.

(d) That the individual is permitted to change a previously elected withholding status only once in the individual's benefit year.

(2) If an individual makes an election to have money deducted and withheld from his or her unemployment compensation payments under subsection (1)(c), the commission shall, in accordance with section 351 of Act No. 281 of the Public Acts of 1967, withhold a tax in the same manner that an employer is required under the internal revenue code of 1986 to withhold a tax on the compensation of an individual. For a new claim filed after January 1, 1998, an election by an individual to have income tax withheld from unemployment compensation payments applies to both federal and state income tax. An individual may not elect to have only federal or only state income tax withheld for a new claim filed after January 1, 1998.

(3) Amounts deducted and withheld from unemployment benefits shall remain in the unemployment insurance trust fund until transferred to the internal revenue service of the United States department of treasury, or to the state department of treasury, as appropriate, as a payment of income tax.

(4) The commission shall follow all procedures specified by the United States department of labor, the internal revenue service of the United States department of treasury, and the Michigan department of treasury pertaining to the deducting and withholding of income tax.

(5) Amounts shall be deducted and withheld under this section only after a claimant's weekly benefit rate is reduced based on the pension reduction and earnings offset requirements of section 27, and only after a claimant's benefit payment is adjusted by amounts withheld from it by the commission to satisfy the legal obligations of restitution under section 62(a), fraud penalties under sections 54 and 54a to 54c, child support obligations under section 27, and necessities under section 30.

(6) This section also applies to the first time a claimant files a claim in an existing benefit year on or after January 1, 1997.

History: Add. 1996, Act 577, Imd. Eff. Jan. 17, 1997.

COMMUNITY-BASED ORGANIZATIONS; JOB TRAINING SERVICES (EXCERPT)
Act 173 of 1983

421.151 Definitions.

Sec. 1. As used in this act:

(a) "Agent orange" means that term as defined in section 5701 of the public health code, 1978 PA 368, MCL 333.5701.

(b) "Barrier to employment" includes, but is not limited to, a limited English-language proficiency, or being a displaced homemaker, school dropout, teenage parent, person with disabilities, older worker, veteran, offender, alcoholic, or addict.

(c) "Community-based organization" means a private, nonprofit organization that is representative of a community or of a significant segment of a community and which provides employment and job training services. Community-based organization includes, but is not limited to, opportunities industrialization centers, the Michigan urban league affiliates, community development corporations, vocational rehabilitation organizations, community action agencies, agencies serving youth, and agencies serving persons with disabilities.

(d) "Comprehensive job training and related services" includes recruitment, counseling, motivational prejob training, vocational training, job development, job placement, and other appropriate services enabling individuals to secure and retain employment at their maximum capacity.

(e) "Economically disadvantaged" means an individual who meets at least 1 of the following criteria:

(i) Receives, or is a member of a family which receives, cash welfare payments under a federal, state, or local welfare program.

(ii) Has, or is a member of a family which has, received a total family income for the 6-month period prior to application for the program involved, exclusive of unemployment compensation, child support payments, welfare payments, and payments made for damages suffered as a result of exposure to agent orange, which, in relation to family size, was not in excess of the higher of:

(A) The poverty level determined in accordance with criteria established by the director of the United States office of management and budget.

(B) Seventy percent of the lower living standard income level, as determined by the bureau of labor statistics of the United States department of labor.

(iii) Is receiving food stamps pursuant to the food stamp act of 1977, Public Law 88-525, 7 U.S.C. 2011 to 2012 and 2013 to 2036.

(iv) Is a foster child on behalf of whom state or local government payments are made.

(v) In cases permitted by regulations of the United States secretary of labor, is an adult individual with disabilities whose own income meets the requirements of subparagraph (i) or (ii), but who is a member of a family whose income does not meet those requirements.

(f) "Job training partnership act" means the job training partnership act, Public Law 97-300, 96 Stat. 1322.

(g) "Service provider" means a person, organization, or other entity that receives job training partnership act funds, either directly or indirectly from the governor, for the purpose of providing job training or other related services pursuant to the job training partnership act.

(h) "Underemployed" means the individual is working part time or full time, but is receiving wages less than 70% of the lower living standard income level as determined by the United States department of labor, bureau of labor statistics.

(i) "Unemployed" means an individual who is without a job and who wants and is available for work. The determination of whether an individual is without a job shall be made in accordance with the criteria used by the bureau of labor statistics of the United States department of labor in defining individuals as unemployed.

History: 1983, Act 173, Imd. Eff. Oct. 13, 1983;—Am. 1990, Act 146, Imd. Eff. June 27, 1990;—Am. 1998, Act 77, Imd. Eff. May 4, 1998.

MCCAULEY-TRAXLER-LAW-BOWMAN-MCNEELY LOTTERY ACT (EXCERPT)
Act 239 of 1972

432.32 Liability of lottery winner to state or support arrearage; application of prize to liability; notice; hearing; application of amount to support arrearage; confidentiality; report by friend of the court; definitions.

Sec. 32. (1) Before payment of a prize of \$1,000.00 or more, the bureau shall determine whether the department of treasury records show that a lottery winner has a current liability to this state or a support arrearage. The department of treasury shall provide the bureau with a list or computer access to a compilation of persons known to the department to have a current liability to this state, including delinquent accounts of amounts due and owing to a court that have been assigned to the state for collection, or a support arrearage. The information shall be updated not less than once a month. If a liability to this state or support arrearage is identified, the bureau shall ascertain the amount owed from the department of treasury and first apply the amount of the prize to the liability to the state other than the amount of any assigned delinquent account of amounts due and owing to a court, next to the support arrearage, and next to the assigned delinquent accounts of amounts due and owing to a court, and the excess, if any, shall be paid to the lottery winner.

(2) A lottery winner shall receive notice and an opportunity for a hearing before the department of treasury or its designee with respect to the liability to which the prize is to be applied where the liability has not been reduced to judgment or has not been finalized under statutory review provisions of the statute under which the liability arose. The notice shall be made by regular mail. The lottery winner may request a hearing within 15 days of the date of the notice by making a written request to the revenue commissioner.

(3) An amount applied to pay a support arrearage shall be paid by the bureau to the department of treasury which shall pay the amount to the office of the friend of the court for the appropriate judicial circuit in the same manner as is prescribed for a payment pursuant to an order of income withholding under section 9 of the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being section 552.609 of the Michigan Compiled Laws.

(4) In regard to the information provided by the department of treasury to the bureau under this section, the bureau is subject to the confidentiality restrictions and penalties provided in section 28(1)(f) and (2) of Act No. 122 of the Public Acts of 1941, being section 205.28 of the Michigan Compiled Laws.

(5) Until October 1, 1995 each office of the friend of the court may report to the department of treasury the names of persons who have a current support arrearage. Beginning October 1, 1995 each office of the friend of the court shall report to the office of child support the names of persons who have a current support arrearage and the office of child support shall provide that information to the department of treasury.

(6) As used in this section:

(a) "Office of the friend of the court" means an agency created in section 3 of the friend of the court act, Act No. 294 of the Public Acts of 1982, being section 552.503 of the Michigan Compiled Laws.

(b) "Support" means that term as defined in section 31 of Act No. 294 of the Public Acts of 1982, being section 552.531 of the Michigan Compiled Laws.

History: Add. 1987, Act 55, Imd. Eff. June 22, 1987;—Am. 1994, Act 11, Imd. Eff. Feb. 24, 1994;—Am. 1996, Act 13, Eff. June 1, 1996.

Compiler's note: For transfer of the Bureau of State Lottery from the Department of Management and Budget to be an autonomous entity within the Department of Treasury, see E.R.O. No. 1991-2, compiled at § 12.161 of the Michigan Compiled Laws.

Popular name: Lottery Act

DEBT MANAGEMENT ACT (EXCERPT)

Act 148 of 1975

451.422 Budget analysis.

Sec. 12. Before a contract is formed between a licensee and a debtor, a thorough and written budget analysis shall be compiled and a copy delivered to the debtor. A licensee shall not accept an account unless a written and thorough budget analysis indicates that the debtor can reasonably meet the requirements required by the budget analysis. The budget analysis shall contain all of the following information about the debtor:

- (a) Name and address.
- (b) Marital status and number of dependents.
- (c) Amount and source of all employment compensation, payments from government programs, child support and alimony payments, and other income.
- (d) Number of exemptions claimed on the debtor's most recent federal income tax return.
- (e) Gross income per pay period, type and amount of all payroll deductions, and net income per pay period.
- (f) Monthly home mortgage or rental payment. If the home mortgage payment does not include an escrow for real estate taxes, the budget analysis shall contain the amount and due dates of the real estate taxes on the property.
- (g) Type and amount of all other fixed periodic payments.
- (h) Type and amount of food, clothing, utility, vehicle, insurance, and all other living expenses.
- (i) List of creditors included in the plan.

- (j) A description of and amount owed for any outstanding garnishments and judgments.
- (k) Periodic amount available for payment toward a debt management plan.

History: 1975, Act 148, Eff. Mar. 31, 1976;—Am. 2000, Act 255, Imd. Eff. June 29, 2000.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at § 445.2003 of the Michigan compiled laws.

MARRIAGE LICENSE (EXCERPT)

Act 128 of 1887

551.102 Blank form for marriage license and certificate; preparation, contents, and distribution; furnishing blank forms of affidavit of competency; filing affidavit; electronic filing; license as matter of record; transmission to department of community health; social security number; application exempt from disclosure.

Sec. 2. (1) Blank forms for a marriage license and certificate shall be prepared and furnished by the state registrar appointed by the director of the department of community health to each county clerk of this state in the quantity needed. The blank form for a license and certificate shall be made in duplicate and shall provide spaces for the entry of identifying information of the parties and other items prescribed in rules promulgated by the director of the department of community health. The state registrar shall furnish to each county clerk of this state blank application forms of an affidavit containing the requisite allegations, under the laws of this state, of the competency of the parties to unite in the bonds of matrimony, and as required to comply with federal law, containing a space requiring each applicant's social security number. A party applying for a license to marry shall make and file the application in the form of an affidavit with the county clerk as a basis for issuing the license. The county clerk may permit a party applying for a marriage license to submit that application electronically. If the county clerk accepts an electronically submitted application, the clerk shall print the required information from the application in the form of an affidavit and have a party named in the application sign the affidavit in the presence of the county clerk or a deputy clerk. The license shall be made a matter of record and shall be transmitted to the department of community health in the manner prescribed by the state registrar. The state registrar shall not require an applicant's social security number to be displayed on the marriage license.

(2) A person shall not disclose, in a manner not authorized by law or rule, a social security number collected as required by this section. A violation of this subsection is a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both. A second or subsequent violation of this subsection is a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(3) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The county clerk shall inform the applicant of this possible exemption.

(4) The application required to be completed under subsection (1) is a nonpublic record and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The application shall be made available, upon request, to the persons named in the application.

History: 1887, Act 128, Eff. Sept. 28, 1887;—How. 6222b;—CL 1897, 8603;—CL 1915, 11377;—CL 1929, 12706;—CL 1948, 551.102;—Am. 1965, Act 127, Eff. Mar. 31, 1966;—Am. 1978, Act 430, Imd. Eff. Oct. 5, 1978;—Am. 1998, Act 333, Imd. Eff. Aug. 10, 1998;—Am. 2006, Act 578, Imd. Eff. Jan. 3, 2007.

Compiler's note: Enacting section 2 of 1998 PA 333 provides:

"Enacting section 2. The family independence agency shall request from the federal government an exemption from the provisions regarding the recording of social security numbers added by this 1998 amendatory act, which are intended to be used for the collection of child support, as required by federal law in order for this state to receive certain federal funds. Upon the granting of the exemption, those provisions referred to by this enacting section shall not be utilized or enforced by the state or a local governmental entity."

Revised Statutes of 1846 (EXCERPT)

DIVORCE

552.13 Alimony; costs; termination.

Sec. 13. (1) In every action brought, either for a divorce or for a separation, the court may require either party to pay alimony for the suitable maintenance of the adverse party, to pay such sums as shall be deemed proper and necessary to conserve any real or personal property owned by the parties or either of them, and to pay any sums necessary to enable the adverse party to carry on or defend the action, during its pendency. It may award costs against either party and award execution for the same, or it may direct such costs to be paid out of any property sequestered, or in the power of the court, or in the hands of a receiver.

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(2) An award of alimony may be terminated by the court as of the date the party receiving alimony remarries unless a contrary agreement is specifically stated in the judgment of divorce. Termination of an award under this subsection shall not affect alimony payments which have accrued prior to that termination.

History: R.S. 1846, Ch. 84;—CL 1857, 3234;—CL 1871, 4745;—How. 6235;—CL 1897, 8628;—CL 1915, 11404;—CL 1929, 12735;—CL 1948, 552.13;—Am. 1951, Act 18, Imd. Eff. Apr. 5, 1951;—Am. 1970, Act 182, Imd. Eff. Aug. 3, 1970;—Am. 1974, Act 364, Eff. Apr. 1, 1975.

Popular name: No-Fault Divorce

Revised Statutes of 1846 (EXCERPT) DIVORCE

552.15 Care, custody, and support of minor children during pendency of action; support order; enforcement.

Sec. 15. (1) After the filing of a complaint in an action to annul a marriage or for a divorce or separate maintenance, on the motion of either party or the friend of the court, or on the court's own motion, the court may enter orders concerning the care, custody, and support of the minor children of the parties during the pendency of the action as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, and as the court considers proper and necessary. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support as provided in this subsection for the parties' children who are not minor children.

(2) An order concerning the support of a child of the parties is governed by and is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

History: R.S. 1846, Ch. 84;—CL 1857, 3236;—CL 1871, 4747;—How. 6237;—CL 1897, 8630;—CL 1915, 11406;—CL 1929, 12737;—Am. 1939, Act 134, Eff. Sept. 29, 1939;—CL 1948, 552.15;—Am. 1985, Act 214, Eff. Mar. 1, 1986;—Am. 1989, Act 274, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 243, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 291, Imd. Eff. Dec. 14, 1990;—Am. 1996, Act 9, Eff. June 1, 1996;—Am. 2001, Act 107, Eff. Sept. 30, 2001.

Popular name: No-Fault Divorce

Revised Statutes of 1846 (EXCERPT) DIVORCE

552.16 Care, custody, and support of minor child after annulment or judgment of divorce or separate maintenance; enforcement.

Sec. 16. (1) Upon annulling a marriage or entering a judgment of divorce or separate maintenance, the court may enter the orders it considers just and proper concerning the care, custody, and, as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, support of a minor child of the parties. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support as provided in this subsection for the parties' children who are not minor children.

(2) An order concerning the support of a child of the parties is governed by and is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

History: R.S. 1846, Ch. 84;—CL 1857, 3237;—CL 1871, 4748;—How. 6238;—CL 1897, 8631;—CL 1915, 11407;—Am. 1929, Act 254, Eff. Aug. 28, 1929;—CL 1929, 12738;—Am. 1939, Act 134, Eff. Sept. 29, 1939;—CL 1948, 552.16;—Am. 1985, Act 214, Eff. Mar. 1, 1986;—Am. 1989, Act 274, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 243, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 291, Imd. Eff. Dec. 14, 1990;—Am. 1996, Act 9, Eff. June 1, 1996;—Am. 2001, Act 107, Eff. Sept. 30, 2001.

Popular name: No-Fault Divorce

Revised Statutes of 1846 (EXCERPT) DIVORCE

552.17 Revision and alteration of judgment concerning care, custody, maintenance, and support of children; enforceability of order.

Sec. 17. (1) After entry of a judgment concerning annulment, divorce, or separate maintenance and on the petition of either parent, the court may revise and alter a judgment concerning the care, custody, maintenance, and support of some or all of the children, as the circumstances of the parents and the benefit of the children require.

(2) An order concerning the support of a child of the parties is governed by and is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

History: R.S. 1846, Ch. 84;—CL 1857, 3238;—CL 1871, 4749;—How. 6239;—CL 1897, 8632;—CL 1915, 11408;—CL 1929, 12739;—CL 1948, 552.17;—Am. 1990, Act 243, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 291, Imd. Eff. Dec. 14, 1990;—Am. 1996, Act 9, Eff. June 1, 1996;—Am. 2001, Act 107, Eff. Sept. 30, 2001.

Popular name: No-Fault Divorce

Revised Statutes of 1846 (EXCERPT)

DIVORCE

552.23 Judgment of divorce or separate maintenance; further award of real and personal estate; transmittal of payments to family independence agency; service fee; computation, payment, and disposition; failure or refusal to pay service fee; contempt; “state disbursement unit” or “SDU” defined.

Sec. 23. (1) Upon entry of a judgment of divorce or separate maintenance, if the estate and effects awarded to either party are insufficient for the suitable support and maintenance of either party and any children of the marriage as are committed to the care and custody of either party, the court may further award to either party the part of the real and personal estate of either party and spousal support out of the real and personal estate, to be paid to either party in gross or otherwise as the court considers just and reasonable, after considering the ability of either party to pay and the character and situation of the parties, and all the other circumstances of the case.

(2) Upon certification by a county family independence agency that a complainant or petitioner in a proceeding under this chapter is receiving public assistance either personally or for children of the marriage, payments received by the friend of the court or the state disbursement unit for the support and education of the children or maintenance of the party shall be transmitted to the family independence agency.

(3) To reimburse the county for the cost of enforcing a spousal or child support order or a parenting time order, the court shall order the payment of a service fee of \$2.00 per month, payable semiannually on each January 2 and July 2. The service fee shall be paid by the person ordered to pay the spousal or child support. The service fee shall be computed from the beginning date of the spousal or child support order and shall continue while the spousal or child support order is operative. The service fee shall be paid 6 months in advance on each due date, except for the first payment, which shall be paid at the same time the spousal or child support order is filed, and covers the period of time from that month until the next calendar due date. An order or judgment that provides for the payment of temporary or permanent spousal or child support that requires collection by the friend of the court or the SDU shall provide for the payment of the service fee. Upon its own motion, a court may amend such an order or judgment for the payment of temporary or permanent spousal or child support to provide for the payment of the service fee in the amount provided by this subsection, upon proper notice to the person ordered to pay the spousal or child support. The service fees shall be turned over to the county treasurer and credited to the general fund of the county. If the court appoints the friend of the court custodian, receiver, trustee, or escrow agent of assets owned by the husband and wife, or either of them, the court may fix the amount of the fee for such service, to be turned over to the county treasurer and credited to the general fund of the county. The court may hold in contempt a person who fails or refuses to pay a fee ordered under this subsection.

(4) As used in this act, “state disbursement unit” or “SDU” means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

History: R.S. 1846, Ch. 84;—CL 1857, 3244;—CL 1871, 4755;—Am. 1877, Act 91, Eff. Aug. 21, 1877;—How. 6245;—CL 1897, 8638;—CL 1915, 11414;—CL 1929, 12745;—Am. 1947, Act 133, Eff. Oct. 11, 1947;—CL 1948, 552.23;—Am. 1951, Act 130, Eff. Sept. 28, 1951;—Am. 1958, Act 81, Eff. Sept. 13, 1958;—Am. 1964, Act 11, Eff. Aug. 28, 1964;—Am. 1967, Act 73, Eff. Jan. 1, 1968;—Am. 1970, Act 182, Imd. Eff. Aug. 3, 1970;—Am. 1971, Act 175, Imd. Eff. Dec. 2, 1971;—Am. 1983, Act 193, Imd. Eff. Nov. 1, 1983;—Am. 1999, Act 159, Imd. Eff. Nov. 3, 1999.

Popular name: No-Fault Divorce

Revised Statutes of 1846 (EXCERPT)

DIVORCE

552.24 Transition to centralized receipt and disbursement of support and fees.

Sec. 24. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

History: Add. 1999, Act 159, Imd. Eff. Nov. 3, 1999.

Compiler's note: Former MCL 552.24, which pertained to right of wife to dower, was repealed by Act 75 of 1971, Eff. Jan. 1, 1972.

Popular name: No-Fault Divorce

Revised Statutes of 1846 (EXCERPT)
DIVORCE

552.27 Alimony or allowance for support and education of children as lien; default; powers of court.

Sec. 27. If alimony or an allowance for the support and education of the children is awarded to either party, the amount of the alimony or allowance constitutes a lien upon the real and personal estate of the adverse party as provided in section 25a of the support and parenting time enforcement act, 1982 PA 295, MCL 552.65a. The court may do 1 or more of the following if the party defaults on the payment of the amount awarded:

(a) Order the sale of the property against which the lien is adjudged in the same manner and upon the same notice as in suits for the foreclosure of mortgage liens.

(b) Award execution for the collection of the judgment.

(c) Order the sequestration of the real and personal estate of either party and may appoint a receiver of the real estate or personal estate, or both, and cause the personal estate and the rents and profits of the real estate to be applied to the payment of the judgment.

(d) Award a division between the husband and wife of the real and personal estate of either party or of the husband and wife by joint ownership or right as the court considers equitable and just.

History: R.S. 1846, Ch. 84;—CL 1857, 3248;—Am. 1865, Act 255, Eff. June 22, 1865;—CL 1871, 4759;—Am. 1877, Act 44, Eff. Aug. 21, 1877;—How. 6247;—Am. 1897, Act 197, Eff. Aug. 30, 1897;—CL 1897, 8640;—CL 1915, 11416;—CL 1929, 12747;—CL 1948, 552.27;—Am. 1970, Act 182, Imd. Eff. Aug. 3, 1970;—Am. 1990, Act 243, Imd. Eff. Oct. 10, 1990;—Am. 1998, Act 96, Eff. Aug. 10, 1998.

Compiler's note: At the end of the first sentence of the first paragraph of this section, the reference to "1982 PA 295, MCL 552.65a" evidently should read "1982 PA 295, MCL 552.625a."

Popular name: No-Fault Divorce

Revised Statutes of 1846 (EXCERPT)
DIVORCE

552.28 Judgment for alimony or allowance or for appointment of trustees; revision or alteration.

Sec. 28. On petition of either party, after a judgment for alimony or other allowance for either party or a child, or after a judgment for the appointment of trustees to receive and hold property for the use of either party or a child, and subject to section 17, the court may revise and alter the judgment, respecting the amount or payment of the alimony or allowance, and also respecting the appropriation and payment of the principal and income of the property held in trust, and may make any judgment respecting any of the matters that the court might have made in the original action.

History: R.S. 1846, Ch. 84;—CL 1857, 3249;—CL 1871, 4760;—How. 6248;—CL 1897, 8641;—CL 1915, 11417;—CL 1929, 12748;—CL 1948, 552.28;—Am. 1970, Act 182, Imd. Eff. Aug. 3, 1970;—Am. 1992, Act 290, Eff. Jan. 1, 1993.

Popular name: No-Fault Divorce

ALIMONY AWARDED BY COURT OF ANOTHER STATE (EXCERPT)
Act 52 of 1911

552.121 Foreign divorce decree as basis of action at law.

Sec. 1. In all cases where a decree for alimony has been rendered in another state in a case where the party against whom the decree was rendered was present in court or was personally served with process within the jurisdiction of the court, the alimony decreed upon the final hearing may be recovered in an action at law in this state, regardless of whether the same is decreed to be paid in 1 payment or in installments from time to time.

History: 1911, Act 52, Eff. Aug. 1, 1911;—CL 1915, 11440;—CL 1929, 12770;—CL 1948, 552.121.

ALIMONY AWARDED BY COURT OF ANOTHER STATE (EXCERPT)
Act 52 of 1911

552.122 Stay of proceedings.

Sec. 2. If the defendant in this state shows that he has made proper application in the court of the other state for a reduction or any further order in relation to the alimony in the courts of the other state, the court in this state may stay the proceedings in this state on such terms as it desires to impose.

History: 1911, Act 52, Eff. Aug. 1, 1911;—CL 1915, 11441;—CL 1929, 12771;—CL 1948, 552.122.

COLLECTION OF ALIMONY OR SUPPORT AND MAINTENANCE (EXCERPT)
Act 379 of 1913

552.151 Alimony or support and maintenance order in suit for divorce or separate maintenance; petition; punishment for neglect or violation.

Sec. 1. In a suit for divorce or separate maintenance, if an order or decree for payment of temporary or permanent alimony, or of support and maintenance for minor children or for children who are 18 years of age or older, has been made, and if the party, plaintiff, or defendant, has appeared in person or by attorney or has been personally served with process within the jurisdiction of the court making the order or decree, then the court may punish by fine or imprisonment, or both, any neglect or violation of the order upon petition of the party whose rights may have been impaired, impeded, or prejudiced by neglect or violation.

History: 1913, Act 379, Eff. Aug. 14, 1913;—CL 1915, 11443;—CL 1929, 12773;—CL 1948, 552.151;—Am. 1962, Act 176, Eff. Mar. 24, 1963;—Am. 1990, Act 242, Imd. Eff. Oct. 10, 1990.

COLLECTION OF ALIMONY OR SUPPORT AND MAINTENANCE (EXCERPT)
Act 379 of 1913

552.152 Payments in default; motion; attachment; “state disbursement unit” or “SDU” defined.

Sec. 2. (1) When a decree or order described in section 1 orders payments to be made to the clerk of the court, the friend of the court, or the state disbursement unit and a payment is in default, the party prejudiced may make a motion before the court showing by records in the clerk's or friend of the court's office, or otherwise, that the default has occurred, and the court may issue an attachment to arrest the party in default and bring the party immediately before the court to answer for the default.

(2) As used in this act, “state disbursement unit” or “SDU” means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

History: 1913, Act 379, Eff. Aug. 14, 1913;—CL 1915, 11444;—Am. 1923, Act 232, Eff. Aug. 30, 1923;—CL 1929, 12774;—CL 1948, 552.152;—Am. 1962, Act 176, Eff. Mar. 28, 1963;—Am. 1999, Act 153, Imd. Eff. Nov. 3, 1999.

COLLECTION OF ALIMONY OR SUPPORT AND MAINTENANCE (EXCERPT)
Act 379 of 1913

552.153 Order for payment; demand or notice not necessity.

Sec. 3. No demand or notice of making the order for such payment shall be necessary in the cases enumerated in section 1.

History: 1913, Act 379, Eff. Aug. 14, 1913;—CL 1915, 11445;—CL 1929, 12775;—CL 1948, 552.153;—Am. 1962, Act 176, Eff. Mar. 28, 1963.

COLLECTION OF ALIMONY OR SUPPORT AND MAINTENANCE (EXCERPT)
Act 379 of 1913

552.154 Attachment; arrest, custody of party.

Sec. 4. The attachment shall be executed by the sheriff of the county, or by any officer authorized to make such arrest, who shall arrest the party named therein and keep him in actual custody and bring him forthwith before the court issuing the attachment, and shall keep and detain him until the court shall make some further order.

History: 1913, Act 379, Eff. Aug. 14, 1913;—CL 1915, 11446;—CL 1929, 12776;—CL 1948, 552.154;—Am. 1962, Act 176, Eff. Mar. 28, 1963.

COLLECTION OF ALIMONY OR SUPPORT AND MAINTENANCE (EXCERPT)
Act 379 of 1913

552.155 Attachment; discharge by execution of bond, court order.

Sec. 5. The party arrested on the attachment shall be discharged therefrom upon executing and delivering to the clerk of the court issuing such attachment a bond, with 2 sufficient sureties in a penal sum to be fixed by the court, conditioned for immediate and faithful performance of the terms of the order for such payment, or the party may be discharged from arrest by such other order as the court may enter after a full hearing thereon.

History: 1913, Act 379, Eff. Aug. 14, 1913;—CL 1915, 11447;—CL 1929, 12777;—CL 1948, 552.155;—Am. 1962, Act 176, Eff. Mar. 28, 1963.

COLLECTION OF ALIMONY OR SUPPORT AND MAINTENANCE (EXCERPT)

Act 379 of 1913

552.156 Transition to centralized receipt and disbursement of support and fees.

Sec. 6. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

History: Add. 1999, Act 153, Imd. Eff. Nov. 3, 1999.

THE FAMILY SUPPORT ACT (EXCERPT)

Act 138 of 1966

552.452 Hearing; order; contents; burden of proving lack of ability to provide support; amount; enforcement of order; custody and parenting time.

Sec. 2. (1) Upon the hearing of the complaint, in the manner of a motion, the court may enter an order as it determines proper for the support of the petitioner and the minor child or children of the parties as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605. The order shall provide that payment shall be made to the friend of the court or the state disbursement unit. If the parent complained of opposes the entry of the order upon the ground that he or she is without sufficient financial ability to provide necessary shelter, food, care, clothing, and other support for his or her spouse and child or children, the burden of proving this lack of ability is on the parent against whom the complaint is made. The order shall state in separate paragraphs the amount of support for the petitioner until the further order of the court, and the amount of support for each child until each child reaches 18 years of age or until the further order of the court. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for the child after the child reaches 18 years of age, or until the further order of the court.

(2) A support order entered under this section is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a child support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

(3) If there is no dispute regarding a child's custody, the court shall include in an order for support issued under this act specific provisions governing custody of and parenting time for the child in accordance with the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31. If there is a dispute regarding custody of and parenting time for the child, the court shall include in an order for support issued under this act specific temporary provisions governing custody of and parenting time for the child. Pending a hearing on or other resolution of the dispute, the court may refer the matter to the office of the friend of the court for a written report and recommendation as provided in section 5 of the friend of the court act, 1982 PA 294, MCL 552.505. In a dispute regarding custody of and parenting time for a child, the prosecuting attorney is not required to represent either party regarding the dispute.

History: 1966, Act 138, Eff. Mar. 10, 1967;—Am. 1967, Act 75, Eff. Nov. 2, 1967;—Am. 1970, Act 153, Imd. Eff. Aug. 1, 1970;—Am. 1983, Act 196, Imd. Eff. Nov. 7, 1983;—Am. 1985, Act 212, Eff. Mar. 1, 1986;—Am. 1989, Act 276, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 237, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 292, Imd. Eff. Dec. 14, 1990;—Am. 1996, Act 5, Eff. June 1, 1996;—Am. 1999, Act 158, Imd. Eff. Nov. 3, 1999;—Am. 2001, Act 111, Eff. Sept. 30, 2001;—Am. 2002, Act 574, Eff. Dec. 1, 2002.

THE FAMILY SUPPORT ACT (EXCERPT)

Act 138 of 1966

552.454 Prosecuting attorney as attorney for petitioner; utilization of child support formula as guideline; transmittal of payments to family independence agency.

Sec. 4. (1) If the county family independence agency where the custodial parent or guardian of the minor child or children or the child or children who have reached 18 years of age resides determines the custodial parent, the minor child or children, the child or children who have reached 18 years of age, or any of them to be eligible for public or medical assistance, or if a complaint is being filed under section 1b, the prosecuting attorney shall act as the attorney for the petitioner.

(2) The prosecuting attorney shall utilize the child support formula developed under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519, as a guideline in petitioning for child support. Upon certification by the family independence agency that the custodial parent and minor child or children or child or children who have reached 18 years of age are receiving public assistance, a payment received by the

friend of the court or the state disbursement unit for the support of the custodial parent and minor child or children or child or children who have reached 18 years of age shall be transmitted to the family independence agency.

History: 1966, Act 138, Eff. Mar. 10, 1967;—Am. 1970, Act 153, Imd. Eff. Aug. 1, 1970;—Am. 1971, Act 195, Imd. Eff. Dec. 20, 1971;—Am. 1983, Act 196, Imd. Eff. Nov. 7, 1983;—Am. 1985, Act 212, Eff. Mar. 1, 1986;—Am. 1990, Act 237, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 292, Imd. Eff. Dec. 14, 1990;—Am. 1999, Act 158, Imd. Eff. Nov. 3, 1999.

THE FAMILY SUPPORT ACT (EXCERPT)

Act 138 of 1966

552.458a Transition to centralized receipt and disbursement of support and fees.

Sec. 8a. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 7 of the office of child support act, 1971 PA 174, MCL 400.237, and modifications to that schedule as the department considers necessary.

History: Add. 1999, Act 158, Imd. Eff. Nov. 3, 1999;—Am. 2002, Act 574, Eff. Dec. 1, 2002.

THE FAMILY SUPPORT ACT (EXCERPT)

Act 138 of 1966

552.459 Short title; “state disbursement unit” or “SDU” defined.

Sec. 9. (1) This act shall be known and may be cited as “the family support act”.

(2) As used in this act, “state disbursement unit” or “SDU” means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

History: Add. 1970, Act 153, Imd. Eff. Aug. 1, 1970;—Am. 1999, Act 158, Imd. Eff. Nov. 3, 1999.

FRIEND OF THE COURT ACT (EXCERPT)

Act 294 of 1982

552.502 Definitions; B to I.

Sec. 2. As used in this act:

- (a) “Bureau” means the state friend of the court bureau created in section 19.
- (b) “Centralizing enforcement” means the process authorized under section 10 of the office of child support act, 1971 PA 174, MCL 400.240.
- (c) “Chief judge” means the following:
 - (i) The circuit judge in a judicial circuit having only 1 circuit judge.
 - (ii) Except in the county of Wayne, the chief judge of the circuit court in a judicial circuit having 2 or more circuit judges.
 - (iii) In the county of Wayne, the executive chief judge of the circuit court in the third judicial circuit.
- (d) “Citizen advisory committee” means a citizen friend of the court advisory committee established as provided in section 4.
- (e) “Consumer reporting agency” means a person that, for monetary fees or dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. As used in this subdivision, “consumer report” means that term as defined in section 603 of the fair credit reporting act, title VI of the consumer credit protection act, Public Law 90-321, 15 USC 1681a.
- (f) “County board” means the county board of commissioners in the county served by the office. If a judicial circuit includes more than 1 county, action required to be taken by the county board means action by the county boards of commissioners for all counties composing that circuit.
- (g) “Court” means the circuit court.
- (h) “Current employment” means employment within 1 year before a friend of the court request for information.
- (i) “Custody or parenting time order violation” means an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.
- (j) “De novo hearing” means a new judicial consideration of a matter previously heard by a referee.
- (k) “Department” means the family independence agency.

(l) "Domestic relations matter" means a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:

(i) 1846 RS 84, MCL 552.1 to 552.45.

(ii) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(iii) Child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(iv) 1968 PA 293, MCL 722.1 to 722.6.

(v) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(vi) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(vii) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(m) "Domestic relations mediation" means a process by which the parties are assisted by a domestic relations mediator in voluntarily formulating an agreement to resolve a dispute concerning child custody or parenting time that arises from a domestic relations matter.

(n) "Friend of the court" means the person serving under section 21(1) or appointed under section 23 as the head of the office of the friend of the court.

(o) "Friend of the court case" means a domestic relations matter that an office establishes as a friend of the court case as required under section 5a. The term "friend of the court case", when used in a provision of this act, is not effective until on and after December 1, 2002.

(p) "Income" means that term as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

History: 1982, Act 294, Eff. July 1, 1983;—Am. 1996, Act 366, Eff. Jan. 1, 1997;—Am. 1998, Act 63, Eff. Aug. 10, 1998;—Am. 2002, Act 571, Eff. June 1, 2003;—Am. 2004, Act 210, Eff. Oct. 1, 2004.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)

Act 294 of 1982

552.502a Definitions; M to T.

Sec. 2a. As used in this act:

(a) "Medical assistance" means medical assistance as established under title XIX of the social security act, 42 USC 1396 to 1396r-6 and 1396r-8 to 1396v.

(b) "Office" and "office of the friend of the court" mean an agency created in section 3.

(c) "Payer" means a person ordered by the circuit court to pay support.

(d) "Public assistance" means cash assistance provided under the social welfare act, 1939 PA 280, 400.1 to 400.119b.

(e) "Recipient of support" means the following:

(i) The spouse, if the support order orders spousal support.

(ii) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(iii) The family independence agency, if support has been assigned to that department.

(f) "State advisory committee" means the committee established by the bureau under section 19.

(g) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(h) "Support" means all of the following:

(i) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(ii) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(iii) A surcharge under section 3a of the support and parenting time enforcement act, MCL 552.603a.

(i) "Support and parenting time enforcement act" means 1982 PA 295, MCL 552.601 to 552.650.

(j) "Support order" means an order entered by the circuit court for the payment of support in a sum certain, whether in the form of a lump sum or a periodic payment.

(k) "Title IV-D" means part D of title IV of the social security act, 42 USC 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(l) "Title IV-D agency" means that term as defined in section 2 of the support and parenting time enforcement act, MCL 552.602.

History: Add. 1996, Act 366, Eff. Jan. 1, 1997;—Am. 1999, Act 150, Imd. Eff. Nov. 3, 1999;—Am. 2002, Act 571, Eff. June 1, 2003;—Am. 2004, Act 210, Eff. Oct. 1, 2004.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)
Act 294 of 1982

552.505 Duties of friend of the court; failure of party to attend scheduled meeting.

Sec. 5. (1) Each office of the friend of the court has the following duties:

(a) To inform each party to the domestic relations matter that, unless 1 of the parties is required to participate in the title IV-D child support program, they may choose not to have the office of the friend of the court administer and enforce obligations that may be imposed in the domestic relations matter.

(b) To inform each party to the domestic relations matter that, unless 1 of the parties is required to participate in the title IV-D child support program, they may direct the office of the friend of the court to close the friend of the court case that was opened in their domestic relations matter.

(c) To provide an informational pamphlet, in accordance with the model pamphlet developed by the bureau, to each party to a domestic relations matter. The informational pamphlet shall explain the procedures of the court and the office; the duties of the office; the rights and responsibilities of the parties, including notification that each party to the dispute has the right to meet with the individual investigating the dispute before that individual makes a recommendation regarding the dispute; the availability of and procedures used in domestic relations mediation; the availability of human services in the community; the availability of joint custody as described in section 6a of the child custody act of 1970, 1970 PA 91, MCL 722.26a; and how to file a grievance regarding the office. The informational pamphlet shall be provided as soon as possible after the filing of a complaint or other initiating pleading. Upon request, a party shall receive an oral explanation of the informational pamphlet from the office.

(d) To make available to an individual form motions, responses, and orders for requesting the court to modify the individual's child support, custody, or parenting time order, or for responding to a motion for such a modification, without assistance of legal counsel. The office shall make available instructions on preparing and filing each of those forms and instructions on service of process and on scheduling a modification hearing.

(e) To inform the parties of the availability of domestic relations mediation if there is a dispute as to child custody or parenting time.

(f) To inform the parents of the availability of joint custody as described in section 6a of the child custody act of 1970, 1970 PA 91, MCL 722.26a, if there is a dispute between the parents as to child custody.

(g) To investigate all relevant facts, and to make a written report and recommendation to the parties and to the court regarding child custody or parenting time, or both, if there is a dispute as to child custody or parenting time, or both, and domestic relations mediation is refused by either party or is unsuccessful, or if ordered to do so by the court. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. If requested by a party, an investigation shall include a meeting with the party. A written report and recommendation regarding child custody or parenting time, or both, shall be based upon the factors enumerated in the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(h) To investigate all relevant facts and to make a written report and recommendation to the parties and their attorneys and to the court regarding child support, if ordered to do so by the court. The written report and recommendation shall be placed in the court file. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. If requested by a party, an investigation shall include a meeting with the party. The child support formula developed by the bureau under section 19 shall be used as a guideline in recommending child support. The written report shall include the support amount determined by application of the child support formula and all factual assumptions upon which that support amount is based. If the office of the friend of the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate, the written report shall also include all of the following:

(i) An alternative support recommendation.

(ii) All factual assumptions upon which the alternative support recommendation is based, if applicable.

(iii) How the alternative support recommendation deviates from the child support formula.

(iv) The reasons for the alternative support recommendation.

(2) If a party who requests a meeting during an investigation fails to attend the scheduled meeting without good cause, the investigation may be completed without a meeting with that party.

History: 1982, Act 294, Eff. July 1, 1983;—Am. 1989, Act 273, Imd. Eff. Dec. 26, 1989;—Am. 1996, Act 144, Imd. Eff. Mar. 25, 1996;—Am. 1996, Act 365, Eff. Jan. 1, 1997;—Am. 2002, Act 571, Eff. June 1, 2003.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)
Act 294 of 1982

552.507 Referee; designation by chief judge; powers; transcript of hearing; cost; de novo court hearing; request; interim order; review.

Sec. 7. (1) The chief judge may designate a referee as provided by the Michigan court rules.

(2) A referee may do all of the following:

(a) Hear all motions in a domestic relations matter, except motions pertaining to an increase or decrease in spouse support, referred to the referee by the court.

(b) Administer oaths, compel the attendance of witnesses and the production of documents, and examine witnesses and parties.

(c) Make a written, signed report to the court containing a summary of testimony given, a statement of findings, and a recommended order; or make a statement of findings on the record and submit a recommended order.

(d) Hold hearings as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. The referee shall make a record of each hearing held.

(e) Accept a voluntary acknowledgment of support liability, and review and make a recommendation to the court concerning a stipulated agreement to pay support.

(f) Recommend a default order establishing, modifying, or enforcing a support obligation in a domestic relations matter.

(3) If ordered by the court, or if stipulated by the parties, a referee shall make a transcript, verified by oath, of each hearing held. The cost of preparing a transcript shall be apportioned equally between the parties, unless otherwise ordered by the court.

(4) The court shall hold a de novo hearing on any matter that has been the subject of a referee hearing, upon the written request of either party or upon motion of the court. The request of a party shall be made within 21 days after the recommendation of the referee is made available to that party.

(5) A hearing is de novo despite the court's imposition of reasonable restrictions and conditions to conserve the resources of the parties and the court if the following conditions are met:

(a) The parties have been given a full opportunity to present and preserve important evidence at the referee hearing.

(b) For findings of fact to which the parties have objected, the parties are afforded a new opportunity to offer the same evidence to the court as was presented to the referee and to supplement that evidence with evidence that could not have been presented to the referee.

(6) Subject to subsection (5), de novo hearings include, but are not limited to, the following:

(a) A new decision based entirely on the record of a previous hearing, including any memoranda, recommendations, or proposed orders by the referee.

(b) A new decision based only on evidence presented at the time of the de novo hearing.

(c) A new decision based in part on the record of a referee hearing supplemented by evidence that was not introduced at a previous hearing.

(7) Pending a de novo hearing, the referee's recommended order may be presented to the court for entry as an interim order as provided by the Michigan court rules. The interim order shall be served on the parties within 3 days and shall be subject to review as provided under this subsection.

History: 1982, Act 294, Eff. July 1, 1983;—Am. 1985, Act 208, Eff. Mar. 1, 1986;—Am. 1996, Act 144, Imd. Eff. Mar. 25, 1996;—Am. 2004, Act 210, Eff. Oct. 1, 2004.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)
Act 294 of 1982

552.508 Expediting relief; methods.

Sec. 8. The circuit court shall utilize referees and take other appropriate action to expedite obtaining relief in the form of child or spousal support in domestic relations matters, including the entry and enforcement of child support orders and the enforcement of spousal support orders, as necessary to obtain dispositions of petitions for relief within the following time frames:

(a) Ninety percent of dispositions within 3 months after filing a petition.

- (b) Ninety-eight percent of dispositions within 6 months after filing a petition.
- (c) One hundred percent of dispositions within 12 months after filing a petition.

History: Add. 1985, Act 208, Eff. Mar. 1, 1986.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)
Act 294 of 1982

552.509 Duties of office regarding support payments; transition to state disbursement unit; providing statement of account to parties; initiating and carrying out proceedings to enforce order entered in domestic relations matter; enforcement orders entered in other state.

Sec. 9. (1) Except as otherwise provided in subsections (2) and (3), after a support order is entered in a friend of the court case, the office shall receive each payment and service fee under the support order; shall, not less than once each month, record each support payment due, paid, and past due; and shall disburse each support payment to the recipient of support within 14 days after the office receives each payment or within the federally mandated time frame, whichever is shorter.

(2) An office shall receive support order and service fee payments, and shall disburse support, as required by subsection (1) until the state disbursement unit implements support and fee receipt and disbursement for the cases administered by that office. At the family independence agency's direction and in cooperation with the SDU, an office shall continue support and fee receipt and support disbursement to facilitate the transition of that responsibility to the SDU as directed in, and in accordance with the transition schedule developed as required by, the office of child support act, 1971 PA 174, MCL 400.231 to 400.240.

(3) After SDU support and fee receipt and disbursement is implemented in a circuit court circuit, the office for that court may accept a support payment made in cash or by cashier's check or money order. If the office accepts such a payment, the office shall transmit the payment to the SDU and shall inform the payer of the SDU's location and the requirement to make payments through the SDU.

(4) Promptly after November 3, 1999, each office shall establish and maintain the support order and account records necessary to enforce support orders and necessary to record obligations, support and fee receipt and disbursement, and related payments. Each office shall provide the SDU with access to those records and shall assist the SDU to resolve support and fee receipt and disbursement problems related to inadequate identifying information.

(5) The office shall provide annually to each party, without charge, 1 statement of account upon request. Additional statements of account shall be provided at a reasonable fee sufficient to pay for the cost of reproduction. Statements provided under this subsection are in addition to statements provided for administrative and judicial hearings.

(6) The office shall initiate and carry out proceedings to enforce an order in a friend of the court case regarding custody, parenting time, health care coverage, or support in accordance with this act, the support and parenting time enforcement act, and supreme court rules.

(7) Upon request of a child support agency of another state, the office shall initiate and carry out certain proceedings to enforce support orders entered in the other state without the need to register the order as a friend of the court case in this state. The order shall be enforced using automated administrative enforcement actions authorized under the support and parenting time enforcement act.

History: 1982, Act 294, Eff. July 1, 1983;—Am. 1995, Act 241, Eff. Mar. 28, 1996;—Am. 1996, Act 144, Eff. Mar. 25, 1996;—Am. 1996, Act 365, Eff. Jan. 1, 1997;—Am. 1998, Act 63, Eff. Aug. 10, 1998;—Am. 1999, Act 150, Imd. Eff. Nov. 3, 1999;—Am. 2002, Act 571, Eff. June 1, 2003;—Am. 2004, Act 210, Eff. Oct. 1, 2004.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)
Act 294 of 1982

552.509a Transition to centralized receipt and disbursement of support and fees.

Sec. 9a. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

History: Add. 1999, Act 150, Imd. Eff. Nov. 3, 1999.

FRIEND OF THE COURT ACT (EXCERPT)
Act 294 of 1982

552.513 Domestic relations mediation; services; agreement; consent order; confidentiality of communications; minimum qualifications of mediator.

Sec. 13. (1) The office shall provide, either directly or by contract, domestic relations mediation to assist the parties in settling voluntarily a dispute concerning child custody or parenting time that arises in a friend of the court case. Parties shall not be required to meet with a domestic relations mediator. The service may be provided directly by the office only if such a service is in place on July 1, 1983, if the service is not available from a private source, or if the court can demonstrate that providing the service within the friend of the court office is cost beneficial. Any expansion of existing services provided by the court on July 1, 1983 shall be provided by an individual meeting the domestic relations mediator minimum qualifications listed under subsection (4).

(2) If an agreement is reached by the parties through domestic relations mediation, a consent order incorporating the agreement shall be prepared by an employee of the office who is a member of the state bar of Michigan; under section 22, by a member of the state bar of Michigan; or by the attorney for 1 of the parties. The consent order shall be provided to, and shall be entered by, the court.

(3) Except as provided in subsection (2), a communication between a domestic relations mediator and a party to a domestic relations mediation is confidential. The secrecy of the communication shall be preserved inviolate as a privileged communication. The communication shall not be admitted in evidence in any proceedings. The same protection shall be given to communications between the parties in the presence of the mediator.

(4) A domestic relations mediator who performs mediation under this act shall have all of the following minimum qualifications:

(a) One or more of the following:

(i) A license or a limited license to engage in the practice of psychology under parts 161 and 182 of the public health code, 1978 PA 368, MCL 333.16101 to 333.16349 and 333.18201 to 333.18237, or a master's degree in counseling, social work, or marriage and family counseling; and successful completion of the training program provided by the bureau under section 19(3)(b).

(ii) Not less than 5 years of experience in family counseling, preferably in a setting related to the areas of responsibility of the friend of the court and preferably to reflect the ethnic population to be served, and successful completion of the training program provided by the bureau under section 19(3)(b).

(iii) A graduate degree in a behavioral science and successful completion of a domestic relations mediation training program certified by the bureau with not less than 40 hours of classroom instruction and 250 hours of practical experience working under the direction of a person who has successfully completed a program certified by the bureau.

(iv) Membership in the state bar of Michigan and successful completion of the training program provided by the bureau under section 19(3)(b).

(b) Knowledge of the court system of this state and the procedures used in domestic relations matters.

(c) Knowledge of other resources in the community to which the parties to a domestic relations matter can be referred for assistance.

(d) Knowledge of child development, clinical issues relating to children, the effects of divorce on children, and child custody research.

History: 1982, Act 294, Eff. July 1, 1983;—Am. 1996, Act 144, Imd. Eff. Mar. 25, 1996;—Am. 2002, Act 571, Eff. June 1, 2003.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)
Act 294 of 1982

552.517 Review of child support order after final judgment; notices and conduct of review; modification order; certain determinations requiring report; contents of report; petition for modification; scheduling of hearing; objection to determination of no change in order; petition to require dependent health care coverage; costs.

Sec. 17. (1) After a final judgment containing a child support order has been entered in a friend of the court case, the office shall periodically review the order, as follows:

(a) If a child is being supported in whole or in part by public assistance, not less than once each 36 months unless both of the following apply:

(i) The office receives notice from the department that good cause exists not to proceed with support action.

(ii) Neither party has requested a review.

(b) At the initiative of the office, if there are reasonable grounds to believe that the amount of child support awarded in the judgment should be modified or that dependent health care coverage is available and the support order should be modified to include an order for health care coverage. Reasonable grounds to review an order under this subdivision include temporary or permanent changes in the physical custody of a child that the court has not ordered, increased or decreased need of the child, probable access by an employed parent to dependent health care coverage, or changed financial conditions of a recipient of support or a payer including, but not limited to, application for or receipt of public assistance, unemployment compensation, or worker's compensation; or incarceration or release from incarceration after a criminal conviction and sentencing to a term of more than 1 year. Within 14 days after receiving information that a recipient of support or payer is incarcerated or released from incarceration as described in this subsection, the office shall initiate a review of the order. A review initiated by the office under this subdivision does not preclude the recipient of support or payer from requesting a review under subdivision (d).

(c) At the direction of the court.

(d) Upon receipt of a written request from either party. Within 14 days after receipt of the review request, the office shall determine whether the order is due for review. The office is not required to investigate more than 1 request received from a party each 36 months.

(e) If a child is receiving medical assistance, not less than once each 36 months unless either of the following applies:

(i) The order requires provision of health care coverage for the child and neither party has requested a review.

(ii) The office receives notice from the family independence agency that good cause exists not to proceed with support action and neither party has requested a review.

(f) If requested by the initiating state for a recipient of services in that state under title IV-D, not less than once each 36 months. Within 14 days after receipt of a review request, the office shall determine whether an order is due for review.

(2) Within 180 days after determining that a review is required under subsection (1), the office shall send notices as provided in section 17b, conduct a review, and obtain a modification of the order if appropriate.

(3) The office shall use the child support formula developed by the bureau under section 19 in calculating the child support award.

(4) The office shall petition the court if modification is determined to be necessary unless either of the following applies:

(a) The difference between the existing and projected child support award is within the minimum threshold for modification of a child support amount as established by the formula.

(b) The court previously determined that application of the formula was unjust or inappropriate and the office determines that the facts of the case and the reasons and amount of the prior deviation remain unchanged.

(5) The notice under section 17b(3) constitutes a petition for modification of the support order and shall be filed with the court.

(6) If the office determines there should be no change in the order and a party objects to the determination in writing to the office within 21 days after the date of the notice provided for in section 17b(3), the office shall schedule a hearing before the court.

(7) If a support order lacks provisions for health care coverage, the office shall petition the court for a modification to require that 1 or both parents obtain or maintain health care coverage for the benefit of each child who is subject to the support order if either of the following is true:

(a) Either parent has health care coverage available, as a benefit of employment, for the benefit of the child at a reasonable cost.

(b) Either parent is self-employed, maintains health care coverage for himself or herself, and can obtain health care coverage for the benefit of the child at a reasonable cost.

(8) The office shall determine the costs to each parent for dependent health care coverage and child care costs and shall disclose those costs in the recommendation under section 17b(3).

History: 1982, Act 294, Eff. July 1, 1983;—Am. 1994, Act 37, Imd. Eff. Mar. 7, 1994;—Am. 2002, Act 571, Eff. June 1, 2003;—Am. 2004, Act 207, Eff. June 30, 2005.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)

Act 294 of 1982

552.517a Repealed. 2002, Act 571, Imd. Eff. Oct. 3, 2002.

Compiler's note: The repealed section pertained to making form motions, responses, and orders available to individuals.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)

Act 294 of 1982

552.517b Review of order; notice of right to request; notice of review; calculation of support amount; objection; joint meeting expediting resolution of support issues; recommendation; modification; frequency of review.

Sec. 17b. (1) Child support orders entered after the effective date of the 2004 amendatory act that added subsection (8) shall be modified according to this section. For each support order entered before the effective date of the 2004 amendatory act that added subsection (8), the friend of the court office shall provide notice to the parties of their right to a review under this section as required by federal law. Notices under this subsection may be placed in court orders as allowed by federal law.

(2) The friend of the court office shall initiate proceedings to review support by sending a notice to the parties. The notice shall request information sufficient to allow the friend of the court to review support, state the date the information is due, and advise the parties concerning how the review will be conducted.

(3) After the information in subsection (2) is due, but not sooner than 21 days or later than 120 days after the date the notice is sent, the friend of the court office shall calculate the support amount in accordance with the child support formula and send a notice to each party and his or her attorney, which shall include all of the following:

(a) The amount calculated for support.

(b) The proposed effective date of the support amount.

(c) Substantially the following statement: "Either party may object to the recommended support amount. If no objection is filed within 21 days of the date this notice was mailed, an order will be submitted to the court incorporating the new support amount." The notice also shall inform the parties of how and where to file an objection.

(4) Twenty-one or more days from the date the notice required by subsection (3) is sent, the friend of the court office shall determine if an objection has been filed. If an objection has been filed, the friend of the court shall set the matter for a hearing before a judge or referee or, if the office receives additional information with the objection, it may recalculate the support amount and send out a revised notice in accordance with subsection (3). If no objection is filed, the friend of the court office shall prepare an order which the court shall enter if it approves of the order.

(5) The friend of the court may schedule a joint meeting between the parties to attempt to expedite resolution of support issues in accordance with the guidelines set forth in section 19(3)(m). The joint meeting and proceedings following the joint meeting are subject to the requirements of section 42a of the support and parenting time enforcement act, MCL 552.642a.

(6) The following provisions apply to support review proceedings under this section:

(a) A recommendation under subsection (3) shall state the calculations upon which the support amount is based. If the friend of the court office recommends a support amount based on imputed income, the recommendation shall also state the amount that would have been recommended based on the actual income of the parties if the actual income of the parties is known. If income is imputed, the recommendation shall recite all factual assumptions upon which the imputed income is based.

(b) The friend of the court office may impute income to a party who fails or refuses to provide information requested under subsection (2).

(c) At a hearing based on an objection to a friend of the court office recommendation, the trier of fact may consider the friend of the court office's recommendation as evidence to prove a fact relevant to the support calculation when no other evidence is presented concerning that fact, if the parties agree or no objection is made to its use for that purpose.

(7) The court shall not require proof of a substantial change in circumstances to modify a child support order when support is adjusted under section 17(1).

(8) A party may also file a motion to modify support. Upon motion of a party, the court may only modify a child support order upon finding a substantial change in circumstances, including, but not limited to, health care coverage becoming newly available to a party and a change in the support level under section 17(4)(a).

(9) Notwithstanding any other provisions of this section, the friend of the court office shall conduct a more frequent review of the support order upon presentation by a party of evidence of a substantial change in

circumstances as set forth in the child support formula guidelines.

History: Add. 1994, Act 37, Imd. Eff. Mar. 7, 1994;—Am. 2002, Act 571, Eff. June 1, 2003;—Am. 2004, Act 207, Eff. June 30, 2005.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)
Act 294 of 1982

552.517c Review of support order in another state; procedures.

Sec. 17c. (1) If Michigan is the initiating state in an interstate friend of the court case involving child support, the office shall determine whether a review of a support order in another state is appropriate in accordance with section 17 and is appropriate based upon the residence and jurisdiction of the parties.

(2) If the office determines that a review of a support order in another state is appropriate, the office shall obtain income, expense, and other information needed to conduct the review from the requesting party or recipient of public assistance or medical assistance.

(3) The office shall initiate a request for a review within 20 calendar days after receipt of the information requested under subsection (2).

(4) The office shall forward to a party who resides in Michigan a copy of each notice issued by the responding state in conjunction with the review and modification of a support order, which notice is sent to the office for distribution.

History: Add. 1994, Act 37, Imd. Eff. Mar. 7, 1994;—Am. 2002, Act 571, Eff. June 1, 2003.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)
Act 294 of 1982

552.517e Arrearage payment schedules; administrative adjustment.

Sec. 17e. The office shall utilize guidelines provided in the child support formula developed by the state friend of the court bureau under section 19 to administratively adjust arrearage payment schedules. In making an administrative adjustment as authorized by this subsection, the office shall follow procedures to afford the payer due process including at least notice, an opportunity for an administrative hearing, and an opportunity for an appeal on the record to an independent administrative or judicial tribunal.

History: Add. 1998, Act 63, Eff. Aug. 10, 1998.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)
Act 294 of 1982

552.518 Information from employer or former employer relative to parent.

Sec. 18. (1) Subject to subsections (3) and (4), upon the request of the office of the friend of the court, any employer or former employer of a parent as defined in section 1 of the office of child support act, 1971 PA 174, MCL 400.231, who is or was employed by the employer as an employee or independent contractor shall provide all of the following information relative to the parent:

(a) Full name and address.

(b) Social security number. The requirement of this subdivision to provide a social security number with the information does not apply if the parent is exempt under federal law from obtaining a social security number or is exempt under federal or state law from disclosure of his or her social security number under these circumstances. The friend of the court shall inform the parent of this possible exemption.

(c) Date of birth.

(d) Amount of wages earned by or other income due the custodial parent or absent parent. Both net and gross income shall be reported, regardless of method of payment.

(e) The following information concerning the person's current and former employment status: whether or not the custodial parent or absent parent is currently employed, laid off, on sick, disability, or other leave of absence, or retired, and amount of income due from an employment related benefit plan, if any.

(f) Dependent health care coverage available to the custodial parent or absent parent as a benefit of employment.

(2) The friend of the court or his or her designee may issue an administrative subpoena to require any public or private entity doing business in the state that employs or has employed a parent to furnish any current employment information in the possession of the entity that pertains to the parent and that is needed to establish, modify, or enforce a support order. The entity's officers or employees shall furnish the information within 15 days after the subpoena is received by the entity. This subsection does not abrogate a confidentiality

privilege established by law.

(3) A request or subpoena for information under this section shall certify that the information obtained will be treated as confidential and shall not be used or released except for the purposes of administering, enforcing, and complying with state and federal laws governing child support.

(4) A former employer is not required to provide information concerning a person who was last employed by the former employer more than 3 years before the date of the request or subpoena for information under this section.

(5) This section does not require the creation or maintenance of records not otherwise required to be created or maintained, or require an employer or former employer to discover information not contained in records of, or otherwise known to, the employer or former employer.

(6) A copy of information provided to the office under this section shall be made available to the parent, upon his or her request.

(7) In the case of disobedience of a request or subpoena for information under this section, the friend of the court or his or her designee may petition the circuit court in the county in which the inquiry is being made to require the production of books, papers, and documents. In the case of refusal to obey a subpoena or request for information under this section, a circuit court may issue an order requiring the person or other entity to appear and to produce books, records, and papers if so ordered. Failure to obey the order of the court may be punished by the court as a contempt.

(8) An employer, former employer, or other entity is not liable under federal or state law to a person or governmental entity for a disclosure of information to the office under this section or for any other action taken by the employer, former employer, or other entity in good faith to comply with the requirements of this section.

History: Add. 1985, Act 208, Eff. Mar. 1, 1986;—Am. 1996, Act 144, Imd. Eff. Mar. 25, 1996;—Am. 1998, Act 63, Eff. Aug. 10, 1998.

Popular name: Friend of the Court

FRIEND OF THE COURT ACT (EXCERPT)

Act 294 of 1982

552.519 State friend of the court bureau; creation; supervision and direction; main office; duties; state advisory committee; report or recommendation; reimbursement for expenses; meetings; assistance.

Sec. 19. (1) The state friend of the court bureau is created within the state court administrative office, under the supervision and direction of the supreme court.

(2) The bureau shall have its main office in Lansing.

(3) The bureau shall do all of the following:

(a) Develop and recommend guidelines for conduct, operations, and procedures of the office and its employees, including, but not limited to, the following:

(i) Case load and staffing standards for employees who perform domestic relations mediation functions, investigation and recommendation functions, referee functions, enforcement functions, and clerical functions.

(ii) Orientation programs for clients of the office.

(iii) Public educational programs regarding domestic relations law and community resources, including financial and other counseling, and employment opportunities.

(iv) Procedural changes in response to the type of grievances received by an office.

(v) Model pamphlets and procedural forms, that shall be distributed to each office.

(vi) A formula to be used in establishing and modifying a child support amount and health care obligation. The formula shall be based upon the needs of the child and the actual resources of each parent. The formula shall establish a minimum threshold for modification of a child support amount. The formula shall consider the child care and dependent health care coverage costs of each parent. The formula shall include guidelines for setting and administratively adjusting the amount of periodic payments for overdue support, including guidelines for adjustment of arrearage payment schedules when the current support obligation for a child terminates and the payer owes overdue support.

(b) Provide training programs for the friend of the court, domestic relations mediators, and employees of the office to better enable them to carry out the duties described in this act and supreme court rules. After September 30, 2002, the training programs shall include training in the dynamics of domestic violence and in handling domestic relations matters that have a history of domestic violence.

(c) Gather and monitor relevant statistics.

(d) Annually issue a report containing a detailed summary of the types of grievances received by each office, and whether the grievances are resolved or outstanding. The report shall be transmitted to the

legislature and to each office and shall be made available to the public. The annual report required by this subdivision shall include, but is not limited to, all of the following:

(i) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of each citizen advisory committee during the preceding year.

(ii) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of the aggregate of all citizen advisory committees in the state during the preceding year.

(iii) An identification of problems that impede the efficiency of the activities and functioning of the citizen advisory committees and the satisfaction of the users of the committees' services.

(e) Develop and recommend guidelines to be used by an office in determining whether or not parenting time has been wrongfully denied by the custodial parent.

(f) Develop standards and procedures for the transfer of part or all of the responsibilities for a case from one office to another in situations considered appropriate by the bureau.

(g) Certify domestic relations mediation training programs as provided in section 13.

(h) Establish a 9-person state advisory committee, serving without compensation except as provided in subsection (4), composed of the following members, giving preference to a member of a citizen advisory committee:

(i) Three public members who have had contact with an office of the friend of the court.

(ii) Three attorneys who are members of the state bar of Michigan and whose practices are primarily domestic relations law. Not more than 1 attorney may be a circuit court judge.

(iii) Three human service professionals who provide family counseling.

(i) Cooperate with the office of child support in developing and implementing a statewide information system as provided in the office of child support act, 1971 PA 174, MCL 400.231 to 400.240.

(j) Develop and make available guidelines to assist the office of the friend of the court in determining the appropriateness in individual cases of the following:

(i) Imposing a lien or requiring the posting of a bond, security, or other guarantee to secure the payment of support.

(ii) Implementing the offset of a delinquent payer's state income tax refund.

(k) Develop and provide the office of the friend of the court with all of the following:

(i) Form motions, responses, and orders for use by an individual in requesting the court to modify his or her child support, custody, or parenting time order, or in responding to a motion for modification without the assistance of legal counsel.

(ii) Instructions on preparing and filing the forms, instructions on service of process, and instructions on scheduling a support, custody, or parenting time modification hearing.

(iii) Guidelines for imputing income for the calculation of child support.

(l) Develop guidelines for, and encourage the use of, plain language within the office of the friend of the court including, but not limited to, the use of plain language in forms and instructions within the office and in statements of account provided as required in section 9.

(m) In consultation with the domestic violence prevention and treatment board created in section 2 of 1978 PA 389, MCL 400.1502, develop guidelines for the implementation of section 41 of the support and parenting time enforcement act, MCL 552.641, that take into consideration at least all of the following regarding the parties and each child involved in a dispute governed by section 41 of the support and parenting time enforcement act, MCL 552.641:

(i) Domestic violence.

(ii) Safety of the parties and child.

(iii) Uneven bargaining positions of the parties.

(4) The state advisory committee established under subsection (3)(h) shall advise the bureau in the performance of its duties under this section. The bureau shall make a state advisory committee report or recommendation available to the public. State advisory committee members shall be reimbursed for their expenses for mileage, meals, and, if necessary, lodging, under the schedule for reimbursement established annually by the legislature. A state advisory committee meeting is open to the public. A member of the public attending a state advisory committee meeting shall be given a reasonable opportunity to address the committee on any issue under consideration by the committee. If a vote is to be taken by the state advisory committee, the opportunity to address the committee shall be given before the vote is taken.

(5) The bureau may call upon each office of the friend of the court for assistance in performing the duties imposed in this section.

History: 1982, Act 294, Eff. July 1, 1983;—Am. 1985, Act 208, Imd. Eff. Jan. 8, 1986;—Am. 1987, Act 197, Imd. Eff. Dec. 14,

1987;—Am. 1994, Act 37, Imd. Eff. Mar. 7, 1994;—Am. 1996, Act 144, Imd. Eff. Mar. 25, 1996;—Am. 1996, Act 366, Eff. Jan. 1, 1997;—Am. 1998, Act 63, Eff. Aug. 10, 1998;—Am. 2001, Act 193, Eff. Oct. 1, 2002;—Am. 2002, Act 569, Eff. Dec. 1, 2002;—Am. 2004, Act 207, Eff. June 30, 2005.

Popular name: Friend of the Court

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)
Act 295 of 1982

552.601 Short title.

Sec. 1. This act shall be known and may be cited as the “support and parenting time enforcement act”.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1996, Act 25, Eff. June 1, 1996.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)
Act 295 of 1982

552.602 Definitions.

Sec. 2. As used in this act:

(a) “Account” means any of the following:

- (i) A demand deposit account.
- (ii) A draft account.
- (iii) A checking account.
- (iv) A negotiable order of withdrawal account.
- (v) A share account.
- (vi) A savings account.
- (vii) A time savings account.
- (viii) A mutual fund account.
- (ix) A securities brokerage account.
- (x) A money market account.
- (xi) A retail investment account.

(b) “Account” does not mean any of the following:

- (i) A trust.
- (ii) An annuity.
- (iii) A qualified individual retirement account.

(iv) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(v) A pension or retirement plan.

(vi) An insurance policy.

(c) “Address” means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.

(d) “Cash” means money or the equivalent of money, such as a money order, cashier’s check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(e) “Custody or parenting time order violation” means an individual’s act or failure to act that interferes with a parent’s right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.

(f) “Department” means the family independence agency.

(g) “Domestic relations matter” means a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:

- (i) 1846 RS 84, MCL 552.1 to 552.45.
- (ii) The family support act, 1966 PA 138, MCL 552.451 to 552.459.
- (iii) Child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.
- (iv) 1968 PA 293, MCL 722.1 to 722.6.
- (v) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.
- (vi) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.
- (vii) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(h) “Driver’s license” means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(i) "Employer" means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.

(j) "Financial asset" means a deposit, account, money market fund, stock, bond, or similar instrument.

(k) "Financial institution" means any of the following:

(i) A state or national bank.

(ii) A state or federally chartered savings and loan association.

(iii) A state or federally chartered savings bank.

(iv) A state or federally chartered credit union.

(v) An insurance company.

(vi) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(vii) An entity regulated by the securities and exchange commission that collects funds from the public.

(viii) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(ix) Another entity that collects funds from the public.

(l) "Friend of the court act" means the friend of the court act, 1982 PA 294, MCL 552.501 to 552.535.

(m) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, MCL 552.502. The term "friend of the court case", when used in a provision of this act, is not effective until on and after December 1, 2002.

(n) "Income" means any of the following:

(i) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.

(ii) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.

(iii) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

(o) "Insurer" means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(i) Public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(iii) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(p) "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 USC 1396 to 1396r-6 and 1396r-8 to 1396v.

(q) "Most recent semiannual obligation" means the total amount of current child support owed by a parent during the preceding January 1 to June 30 or July 1 to December 31.

(r) "Occupational license" means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

(s) "Office of child support" means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(t) "Office of the friend of the court" means an agency created in section 3 of the friend of the court act, MCL 552.503.

(u) "Order of income withholding" means an order entered by the circuit court providing for the withholding of a payer's income to enforce a support order under this act.

(v) "Payer" means an individual who is ordered by the circuit court to pay support.

(w) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(x) "Plan administrator" means that term as used in relation to a group health plan under section 609 of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 USC 1169, if the health care

coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(y) "Political subdivision" means a county, city, village, township, educational institution, school district, or special district or authority of this state or of a local unit of government.

(z) "Recipient of support" means the following:

(i) The spouse, if the support order orders spousal support.

(ii) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(iii) The department, if support has been assigned to that department.

(aa) "Recreational or sporting license" means a hunting, fishing, or fur harvester's license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

(bb) "Referee" means a person who is designated as a referee under the friend of the court act.

(cc) "Source of income" means an employer or successor employer or another individual or entity that owes or will owe income to the payer.

(dd) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(ee) "State friend of the court bureau" means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ff) "Support" means all of the following:

(i) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(ii) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(iii) A surcharge under section 3a.

(gg) "Support order" means an order entered by the circuit court for the payment of support, whether or not a sum certain.

(hh) "Title IV-D" means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 USC 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(ii) "Title IV-D agency" means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract including an office of the friend of the court or a prosecuting attorney.

(jj) "Work activity" means any of the following:

(i) Unsubsidized employment.

(ii) Subsidized private sector employment.

(iii) Subsidized public sector employment.

(iv) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available.

(v) On-the-job training.

(vi) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(vii) Community service programs.

(viii) Vocational educational training, not to exceed 12 months with respect to an individual.

(ix) Job skills training directly related to employment.

(x) Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency.

(xi) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate.

(xii) The provisions of child care services to an individual who is participating in a community service program.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1990, Act 240, Imd. Eff. Oct. 10, 1990;—

Am. 1995, Act 141, Eff. Jan. 1, 1996;—Am. 1995, Act 236, Eff. Mar. 28, 1996;—Am. 1996, Act 120, Imd. Eff. Mar. 6, 1996;—Am. 1996, Act 235, Eff. Jan. 1, 1997;—Am. 1996, Act 239, Eff. Jan. 1, 1997;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 1999, Act 160, Imd. Eff. Nov. 3, 1999;—Am. 2002, Act 565, Eff. Dec. 1, 2002;—Am. 2002, Act 567, Eff. June 1, 2003;—Am. 2002, Act 568, Eff. Dec. 1, 2002;—Am. 2002, Act 570, Eff. June 1, 2003;—Am. 2002, Act 572, Eff. Dec. 1, 2002;—Am. 2004, Act 208, Eff. June 30, 2005.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.603 Support order; enforcement.

Sec. 3. (1) A support order issued by a court of this state shall be enforced as provided in this act.

(2) Except as otherwise provided in this section, a support order that is part of a judgment or is an order in a domestic relations matter is a judgment on and after the date the support amount is due as prescribed in section 5c, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. Retroactive modification of a support payment due under a support order is permissible with respect to a period during which there is pending a petition for modification, but only from the date that notice of the petition was given to the payer or recipient of support.

(3) This section does not apply to an ex parte interim support order or a temporary support order entered under supreme court rule.

(4) The office of the friend of the court shall make available to a payer or payee the forms and instructions described in section 5 of the friend of the court act, MCL 552.505.

(5) This section does not prohibit a court approved agreement between the parties to retroactively modify a support order. This section does not limit other enforcement remedies available under this or another act.

(6) Every support order that is part of a judgment issued by a court of this state or that is an order in a domestic relations matter shall include all of the following:

(a) Substantially the following statement: "Except as otherwise provided in section 3 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603, a support order that is part of a judgment or that is an order in a domestic relations matter as defined in section 2 of the friend of the court act, 1982 PA 294, MCL 552.502, is a judgment on and after the date each support payment is due, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. A surcharge will be added to support amounts that are past due as provided in section 3a of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603a."

(b) Notice informing the payer of the imposition of liens by operation of law and that the payer's real and personal property can be encumbered or seized if an arrearage accrues in an amount greater than the amount of periodic support payments payable under the payer's support order for the time period specified in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(7) Each support order that is an order in a friend of the court case shall include all of the following:

(a) A requirement that, within 21 days after the payer or payee changes his or her residential or mailing address, that individual report the new address and his or her telephone number in writing to the friend of the court.

(b) A requirement that both the payer and payee notify the office of the friend of the court if he or she holds an occupational license and if he or she holds a driver's license.

(c) The name, address, and telephone number of the payer's and payee's current sources of income.

(d) A requirement that both the payer and payee inform the office of the friend of the court of his or her social security number and driver's license number. The requirement of this subdivision to provide a social security number with the information does not apply to a payer or payee who demonstrates he or she is exempt under law from obtaining a social security number or to a payer or payee who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The court shall inform the payer and payee of this possible exemption.

(e) Notice that an order for dependent health care coverage takes effect immediately and will be sent to the parent's current and subsequent employers and insurers if appropriate. The notice shall inform the parent that he or she may contest the action by requesting a review or hearing concerning availability of health care coverage at a reasonable cost.

(8) A support order shall not accrue interest.

History: Add. 1987, Act 97, Imd. Eff. July 6, 1987;—Am. 1987, Act 198, Imd. Eff. Dec. 14, 1987;—Am. 1993, Act 256, Imd. Eff. Nov. 29, 1993;—Am. 1995, Act 141, Eff. Jan. 1, 1996;—Am. 1996, Act 25, Eff. June 1, 1996;—Am. 1996, Act 120, Imd. Eff. Mar. 6, 1996;—Am. 1996, Act 235, Eff. Jan. 1, 1997;—Am. 1996, Act 239, Eff. Jan. 1, 1997;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2001, Act 106, Eff. Sept. 30, 2001;—Am. 2002, Act 572, Eff. Dec. 1, 2002.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.603a Support payment; surcharge; computation; assessment; collection; enforcement.

Sec. 3a. (1) For a friend of the court case, as of January 1 and July 1 of each year, a surcharge shall be added to support payments that are past due as of those dates. The surcharge shall be calculated at 6-month intervals at an annual rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer. The amount of the surcharge shall not compound. The amount shown as due and owing on the records of the friend of the court as of January 1 and July 1 of each year shall be reduced by an amount equal to 1 month's support for purposes of assessing the surcharge. A surcharge under this subsection shall not be added to support ordered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the time period to the date of the support order.

(2) A surcharge as computed in subsection (1) shall be assessed on a semiannual cycle on January 1 and July 1 of each year except as otherwise provided under subsection (3).

(3) A surcharge shall not be assessed for the current semiannual cycle for any of the following:

(a) Beginning on July 1, 2005, in cases in which the friend of the court is collecting on a current child support obligation, the payer has paid 90% or more of the most recent semiannual obligation during the semiannual cycle.

(b) For a support order entered after the effective date of the amendatory act that added this subsection, for any period of time a support order did not exist when support is later ordered for that period.

(c) The surcharge is waived or abated under a court order under section 3d.

(4) The surcharge shall be collected and enforced by any means authorized under this act, the friend of the court act, or another appropriate federal or state law for the enforcement and collection of child support and paid through the state disbursement unit.

History: Add. 1995, Act 141, Eff. Jan. 1, 1996;—Am. 1996, Act 120, Imd. Eff. Mar. 6, 1996;—Am. 2002, Act 572, Eff. Dec. 1, 2002;—Am. 2003, Act 276, Eff. Jan. 15, 2004;—Am. 2004, Act 208, Imd. Eff. July 14, 2004.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)**Act 295 of 1982****552.603b Retroactive correction of support amount.**

Sec. 3b. If an individual who is required by the court to report his or her income to the court or the office of the friend of the court knowingly and intentionally fails to report, refuses to report, or knowingly misrepresents that income, after notice and an opportunity for a hearing, the court may retroactively correct the amount of support.

History: Add. 1996, Act 367, Eff. Jan. 1, 1997.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)**Act 295 of 1982****552.604 Support order to provide for order of income withholding; order of income withholding by operation of law; notice; effective date of order.**

Sec. 4. (1) After July 1, 1983, each support order entered or modified by the circuit court shall provide for an order of income withholding.

(2) Each support order entered by the circuit court on or before July 1, 1983 shall be considered to provide for an order of income withholding by operation of law, and income withholding shall be implemented under the same circumstances and enforced in the same manner as in the case of orders of income withholding required by subsection (1). The office of the friend of the court shall send notice of the provisions of this subsection by ordinary mail to each payer under a support order entered by the circuit court on or before July 1, 1983 to whom this subsection applies.

(3) An order of income withholding in a support order including consideration of any abatements of support entered or modified after December 31, 1990, shall take effect immediately unless 1 of the following applies:

(a) The court finds, upon notice and hearing, that there is good cause for the order of income withholding not to take effect immediately. For purposes of this subdivision, a finding of good cause shall be based on at least all of the following:

(i) A written and specific finding by the court why immediate income withholding would not be in the child's best interests.

(ii) Proof of timely payment of previously ordered support, if applicable.

(iii) For a friend of the court case, an agreement by the payer that he or she shall keep the office of the friend of the court informed of both of the following:

(A) The name, address, and telephone number of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurer; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(b) The parties enter into a written agreement that is reviewed and entered in the record by the court that provides for all of the following:

(i) The order of income withholding shall not take effect immediately.

(ii) An alternative payment arrangement.

(iii) For a friend of the court case, that the payer shall keep the office of the friend of the court informed of both of the following:

(A) The name, address, and telephone number of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurer; the policy, certificate, or contract number; and names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(4) Except as otherwise provided in subsection (3)(a) or (b), an order of income withholding in an ex parte interim support order shall take effect after the expiration of 21 days after the order has been served on the opposite party unless the opposite party files a written objection to the ex parte interim support order during that 21-day period.

(5) An order of income withholding that does not take effect immediately as provided in this section shall take effect when the requirement of section 7 is met.

(6) The court for cause or at the request of the payer may order the withholding of income to take effect immediately.

(7) An order of income withholding in a support order entered on or before December 31, 1990 shall take effect when the requirement of section 7 is met.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1990, Act 296, Imd. Eff. Dec. 14, 1990;—Am. 1992, Act 291, Eff. Jan. 1, 1993;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2002, Act 572, Eff. Dec. 1, 2002.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.607 Notice of arrearage to payer; contents; sending copy of notice to recipient; request for hearing; time of hearing; de novo hearing; consolidation of hearings; completion of proceedings; review by friend of the court office.

Sec. 7. (1) For a friend of the court case, if income withholding is not immediately effective and the arrearage under a support order reaches the arrearage amount that requires the initiation of 1 or more support enforcement measures as provided in section 11 of the friend of the court act, MCL 552.511, or, if the amount of income withholding is administratively adjusted for arrears under section 17e of the friend of the court act, MCL 552.517e, the office of the friend of the court immediately shall send notice of the arrearage to the payer by ordinary mail to his or her last known address. The notice to the payer shall contain the following information:

(a) The amount of the arrearage.

(b) One or both of the following:

(i) That the payer's income is subject to income withholding and the amount to be withheld.

(ii) That the payer's income withholding is being administratively adjusted and the amount of the adjustment.

(c) That income withholding will be applied to current and subsequent employers and periods of employment and other sources of income.

(d) That the order of income withholding is effective and notice to withhold income will be sent to the payer's source of income.

(e) That the payer may request a hearing under subsection (4) in writing within 21 days after the date of the notice to contest the withholding, but only on the grounds that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer, and if the notice includes an administrative adjustment of arrears, that the administrative adjustment will cause an unjust or inappropriate result.

(f) That if the hearing is held before a referee, the payer has a right to a de novo hearing before a circuit court judge. The place where a request for hearing under subsection (4) shall be filed.

(g) That if the payer believes that the amount of support should be modified due to a change in circumstances, the payer may file a petition with the court for modification of the support order.

(2) A copy of the notice provided for in subsection (1) shall be sent by ordinary mail to each recipient of support.

(3) A payer to whom notice is sent under subsection (1), within 21 days after the date on which the notice was sent, may request a hearing by filing a request for hearing as provided in the notice and serving a copy on the other party. A hearing concerning implementation of income withholding that was not previously effective may be requested only on the grounds that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer.

(4) If a payer requests a hearing under subsection (3), the notice and request shall be filed with the court clerk as a motion contesting the proposed action and a referee or circuit judge shall hold a hearing within 14 days after the date of the request. If at the hearing the payer establishes that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer, or that periodic implementation of an administrative adjustment of the amount of the periodic payment of arrears to be withheld will cause an unjust or inappropriate result, the income withholding shall be modified or rescinded according to the guidelines established under section 19 of the friend of the court act, MCL 552.519.

(5) If the hearing provided under subsection (4) is held before a referee, either party may request a de novo hearing as provided in section 7 of the friend of the court act, MCL 552.507.

(6) If a petition for modification of the support order is filed by or on behalf of a payer and is pending at the date scheduled for a hearing under subsection (4), the court may consolidate the hearing under subsection (4) and a hearing on the petition for modification.

(7) All proceedings under this section shall be completed within 45 days after the date that notice was sent under subsection (1), unless otherwise permitted by the court upon a showing of good cause.

(8) The friend of the court office may review the objection administratively before a hearing is held before a referee or judge. If the friend of the court office reviews the objection administratively, either party may object and a hearing shall be held before a referee or judge.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2002, Act 572, Eff. Dec. 1, 2002;—Am. 2004, Act 206, Eff. Feb. 28, 2005.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.608 Limitation on amount of income withheld.

Sec. 8. The total amount of income withheld under this act under all orders to withhold income for current support, past due support, fees, and health care coverage premiums effective against a payer shall not exceed the maximum amount permitted under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673.

History: Add. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1995, Act 236, Eff. Mar. 28, 1996.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.609 Order of income withholding; service; directives; notice.

Sec. 9. A notice of income withholding entered under this act shall be served on sources of income as provided in section 11. The notice shall direct sources of income to withhold from income due the payer an amount sufficient to meet the payments ordered for support and service fees, and to defray arrearages in payments and service fees due at the time the order of income withholding takes effect. The notice shall also direct that the amount withheld for support, fees, and health care coverage premiums shall not exceed the amount allowed under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673. The notice shall contain a statement of the requirements of sections 11, 11a, 12, 13, 14, and 23. The notice shall also direct that income withheld under the notice for support and fees shall be paid to the office of the friend of the court or to the state disbursement unit, as appropriate, within 3 days after the date of the withholding.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 1999, Act 160, Imd. Eff. Nov. 3, 1999.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.610 Payer to give friend of court name and address of employer.

Sec. 10. For a friend of the court case, the payer shall give to the office of the friend of the court at the time the order of income withholding is issued the name and address of his or her employer. The payer shall immediately give to the office of the friend of the court notice of the name and address of any subsequent employer.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 2002, Act 572, Eff. Dec. 1, 2002.

**SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)
Act 295 of 1982**

552.611 Order of income withholding; duration; priority.

Sec. 11. An order of income withholding entered under this act is binding upon a source of income 7 days after service upon that source of income of a notice of the order of income withholding by ordinary mail or by electronic means as agreed by the source of income and the office of the friend of the court. The order of income withholding remains in effect until further order of the court. An order of income withholding has priority over all other legal process under state law against the same income.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1996, Act 367, Eff. Jan. 1, 1997;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998.

**SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)
Act 295 of 1982**

552.611a More than 1 order of income withholding against payer or parent; compliance with source of income; priority; liability; identification of withholding; combining amounts in single payment; identifying portion of single payment attributable to each payer.

Sec. 11a. (1) If there is more than 1 order to withhold income for support, fees, or health care coverage premiums against a payer or parent under this act, the source of income shall comply with all of the notices to withhold income to the extent that the total amount withheld from the payer's or parent's income does not exceed the limits imposed under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673, giving priority to amounts designated in each notice as current support, as follows:

(a) If the total of the amounts designated in the notices as current support exceeds the amount available for income withholding, then the source of income shall allocate to each order an amount for current support equal to the amount designated in the notice as current support, divided by the total of the amounts designated in the notices as current support, multiplied by the amount of income available for income withholding.

(b) If the total of the amounts designated in the notices as current support does not exceed the amount available for income withholding, then the source of income shall pay the amounts designated as current support, and in addition shall proportionately allocate to each order an amount for past due support not to exceed the amount designated in the notice as past due support. This subdivision does not require the maximum withholding to satisfy past due child or spousal support.

(c) If the total amounts allocated to current and past due support do not exceed the amount available for income withholding, then the source of income shall allocate the remaining income to the parent's portion of health care coverage premiums attributable to coverage of the children specified in the order if remaining income is sufficient to cover the cost of the premium. This subdivision does not require a source of income to pay the parent's portion of health care coverage premiums.

(2) A source of income is liable for an amount that the source knowingly and intentionally fails to withhold from the payer's income following service on the source of income of a notice of income withholding, except to the extent that the amount is limited by subsection (1) and section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673.

(3) A source of income shall identify each withholding by payer, payer's social security number, case number, amount withheld, and the date on which support was withheld from the payer's income. If the source of income is an employer, it shall also provide its federal employer identification number. A source of income may meet the requirements of this subsection through the use of an automated reporting system established by the SDU.

(4) A source of income may combine amounts withheld from payers' incomes in a single payment and separately identify by payer, social security number, and case number the portion of the single payment that is attributable to each individual payer.

History: Add. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1990, Act 296, Imd. Eff. Dec. 14, 1990;—Am. 1995, Act 236, Eff. Mar. 28, 1996;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 1999, Act 160, Imd. Eff. Nov. 3, 1999.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.612 Compliance with order as discharge of liability to payer.

Sec. 12. Compliance by the source of income with a notice of income withholding operates as a discharge of the source's liability to the payer as to that portion of the payer's income affected.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.613 Failure to comply with order; contempt; finding; initiation of proceedings; jurisdiction.

Sec. 13. The court may find a source of income in contempt, require the source of income to pay an amount according to section 11a(2) if the terms of that section have been satisfied, and fine the source of income if the source of income is served with a notice of income withholding and fails to comply with the notice or to pay withheld amounts to the friend of the court after the order becomes binding under section 11. The IV-D agency is responsible for initiating contempt proceedings under this section. Contempt proceedings under this section may be initiated in any county with jurisdiction over the source of income.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2004, Act 206, Eff. Feb. 28, 2005.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.614 Termination or interruption of payer's income; notice; service on new employer or other source of income.

Sec. 14. (1) A source of income that has been served with a notice of income withholding or with an order or notice of an order for dependent health care coverage shall notify the appropriate office of the friend of the court if the parent's income from that source or dependent health care coverage is terminated.

(2) If the source of income is an employer, the source of income shall promptly notify the appropriate office of the friend of the court when the payer's employment is terminated or interrupted for a period of 14 or more consecutive days, and shall provide the payer's last known address and the name and address of the payer's new employer or other source of income, if known. The office of the friend of the court shall immediately serve the payer's new employer or other source of income with a notice of income withholding and, if the payer's source of income is an employer, with a notice of the order for dependent health care coverage.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2001, Act 106, Eff. Sept. 30, 2001.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.615 Notice of change in circumstances.

Sec. 15. The payer and any recipient of support shall immediately give to the office of the friend of the court notice of any change in circumstances which would affect an order of income withholding or the distribution of money received under that order.

History: 1982, Act 295, Eff. July 1, 1983.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.617 Notice of support modification; changing amount assigned or withheld.

Sec. 17. For a friend of the court case, if the court orders a modification in support and an order of income withholding has been entered under this act, the office of the friend of the court shall give to a source of income to which notice of income withholding was sent under section 11 a notice of the modification by ordinary mail or by electronic means as agreed by the source of income and the office of the friend of the court. The amount assigned or withheld shall be changed to conform with the court ordered modification 7 days after receipt of the notice of modification.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1996, Act 367, Eff. Jan. 1, 1997;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2002, Act 572, Eff. Dec. 1, 2002.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.619 Modifying support order to exclude support for child of whom payer awarded sole custody; suspension or termination of order of income withholding; circumstances prohibiting written agreement; effectiveness of order of income withholding; refund of money improperly withheld.

Sec. 19. (1) If the court awards to the payer sole custody of a child for whom the payer has been previously ordered to pay support and a previously accumulated arrearage under the support order for that child does not exist, the court shall modify any existing support order to exclude support ordered to be paid by that payer for that particular child. If an existing support order does not provide for support to any other child of whom the payer does not have custody, for support to a former spouse, or for payments of confinement or pregnancy expenses, the court shall terminate the order of income withholding as soon as any previously accumulated arrearage has been paid.

(2) The office of the friend of the court shall suspend or terminate an order of income withholding under any of the following circumstances:

(a) The location of the child and custodial parent cannot be determined for a period of 60 days or more, and the friend of the court case is being closed.

(b) The court determines that there is no further support obligation.

(c) When otherwise determined by the court, upon a showing of good cause, and if the court determines that such suspension or termination is not contrary to the best interests of the child. In making a determination under this subdivision, the court may consider the previous payment record of the payer, evidence of the payer's intent to make regular and timely support payments, and any other factors considered relevant by the court. However, the payment of arrearages under the support order shall not be the sole reason for termination of an order of income withholding.

(d) The parties enter into a written agreement that is reviewed and entered in the record by the court that provides for all of the following:

(i) The order of income withholding shall be suspended.

(ii) An alternative payment arrangement.

(iii) For a friend of the court case, the payer shall keep the office of the friend of the court informed of both of the following:

(A) The name and address of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurance company, health care organization, or health maintenance organization; the policy, certificate, or contract number; and names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(3) The parties shall not enter into a written agreement under subsection (2)(d) if either of the following circumstances exists:

(a) There is a support arrearage.

(b) An order of income withholding was previously suspended or terminated and subsequently implemented due to the payer's failure to pay support.

(4) If a written agreement is entered into under subsection (2)(d), the order of income withholding shall take effect when an arrearage in support payments as agreed to under the written agreement reaches the arrearage amount that would require the initiation of 1 or more support enforcement measures if the case were a friend of the court case, as provided in section 11 of the friend of the court act, MCL 552.511.

(5) The court may suspend or terminate an order of income withholding if the custodial parent moves out of the state without court authorization.

(6) The office of the friend of the court shall promptly refund money that has been improperly withheld.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1990, Act 296, Imd. Eff. Dec. 14, 1990;—Am. 1992, Act 291, Eff. Jan. 1, 1993;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2002, Act 572, Eff. Dec. 1, 2002.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.624 Offset proceedings against delinquent payer's tax refunds.

Sec. 24. For a friend of the court case, if a support arrearage has accrued, the office of the friend of the court may request the office of child support to initiate offset proceedings against the delinquent payer's state tax refunds and federal income tax refunds as provided in section 3a of the office of child support act, 1971 PA 174, MCL 400.233a.

History: Add. 1985, Act 210, Imd. Eff. Jan. 8, 1986;—Am. 2002, Act 572, Eff. Dec. 1, 2002.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.626 Notice of income withholding; failure of parent to obtain or maintain health care coverage for child; duties of friend of the court.

Sec. 26. (1) For a friend of the court case, within 2 business days after a new hire report is entered into the state directory of new hires, as created under section 453A of title IV-D, 42 U.S.C. 653a, or a payer's or parent's employer is otherwise identified, the office shall, when appropriate, provide the new employer with a notice of income withholding or a notice of the order for dependent health care coverage, or both, on behalf of a payer who is subject to income withholding or a parent or payer who is required to provide dependent health care coverage.

(2) If an order for dependent health care coverage was entered before September 30, 2001, the office shall, at the time notice of the order is sent to the employer under subsection (1), provide the payer or parent with instructions on how to request a review or hearing to contest the availability of dependent health care coverage at a reasonable cost.

(3) Notwithstanding subsection (2), if a parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court, the office of the friend of the court shall, as applicable, do either of the following:

(a) Petition the court for an order to show cause why the parent should not be held in contempt for failure to obtain or maintain dependent health care coverage that is available at a reasonable cost.

(b) Send notice of noncompliance to the parent. The notice shall contain all of the following information:

(i) That the office will notify the parent's employer to deduct premiums for, and to notify the insurer or plan administrator to enroll the child in, dependent health care coverage unless the parent does either of the following within 21 days after mailing of the notice:

(A) Submits written proof to the friend of the court of the child's enrollment in a health care coverage plan.

(B) Requests a hearing to determine the availability or reasonable cost of the health care coverage.

(ii) That the order for dependent health care coverage will be applied to current and subsequent employers and periods of employment.

History: Add. 1995, Act 236, Eff. Mar. 28, 1996;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2001, Act 106, Eff. Sept. 30, 2001;—Am. 2002, Act 572, Eff. Dec. 1, 2002.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.626a Eligibility of parent for health care coverage through employer; duties of employer.

Sec. 26a. (1) If a parent is eligible for health care coverage through an employer doing business in the state, within 20 business days after the date of an order or notice of an order for dependent health care coverage, the employer shall notify its insurer or plan administrator and take other action as required to enroll that parent's child in its health care coverage plan or plans, without regard to any enrollment period restrictions, when all of the following exist:

(a) The parent is required by a court or administrative order to provide health care coverage for the parent's child.

(b) The child is eligible for coverage under the plan. A child cannot be denied enrollment or coverage on the grounds that the child was born out of wedlock, is not claimed as a dependent on the parent's federal income tax return, does not reside with the parent or in the insurer's service area, or is eligible for or receiving medical assistance.

(c) The employee applies for coverage for the child or, if the employee fails to apply, the friend of the court or child's other parent through the friend of the court applies for coverage for the child. Application by the friend of the court shall be in the form of the order for dependent health care coverage or a notice of the order for dependent health care coverage.

(2) If coverage is available through the parent's employer, the employer shall withhold from the employee's income the employee's share, if any, of premiums for dependent health care coverage not to exceed the amount allowed under section 8 and pay that amount to the insurer or plan administrator.

(3) An employer shall not disenroll or eliminate health care coverage of a child eligible for coverage and enrolled under subsection (1) unless the employer is provided with satisfactory written evidence that 1 of the following applies:

(a) The court or administrative order requiring health care coverage is no longer in effect.

(b) The child is or will be enrolled in comparable health care coverage that takes effect not later than the effective date of the disenrollment from the existing plan.

(c) The employer has eliminated dependent health care coverage for all of its employees or members.

History: Add. 1995, Act 236, Eff. Mar. 28, 1996;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2001, Act 106, Eff. Sept. 30, 2001.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.626b Order or notice for dependent health care coverage; requirements.

Sec. 26b. (1) An order or notice for dependent health care coverage entered under this act shall include the information required in a qualified medical child support order as specified in section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act and shall comply with standards of the national medical support notice as required to meet federal law and regulations.

(2) An order or notice of an order for dependent health care coverage served on an employer shall direct the employer to withhold from the employee's income the employee's share, if any, of premiums for dependent health care coverage and pay that amount to the insurer or plan administrator. The order or notice shall also direct that the amount withheld for support, fees, and health care premiums shall not exceed the amount allowed under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673.

(3) An order or notice of an order for dependent health care coverage under this section may be combined with or accompany an order or notice of income withholding under section 9.

History: Add. 1995, Act 236, Eff. Mar. 28, 1996;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2001, Act 106, Eff. Sept. 30, 2001.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.626c Order for health care coverage; modification notice.

Sec. 26c. If the court modifies an order for health care coverage that may affect the provision of dependent health care coverage, the office of the friend of the court shall send a notice of the modification to the employer, insurer, or plan administrator.

History: Add. 1995, Act 236, Eff. Mar. 28, 1996.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.627 Other enforcement action.

Sec. 27. (1) Under the Michigan court rules, the circuit court may take other enforcement action under applicable laws, including, but not limited to, the following:

- (a) 1846 RS 84, MCL 552.1 to 552.45.
- (b) 1913 PA 379, MCL 552.151 to 552.156.
- (c) The family support act, 1966 PA 138, MCL 552.451 to 552.459.
- (d) Section 1701 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1701.
- (e) 1968 PA 293, MCL 722.1 to 722.6.
- (f) The child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.
- (g) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(2) Even if another act of this state provides that this act applies to support orders issued under the other act, if that other act contains a specific provision regarding the contents or enforcement of the support order that conflicts with this act, the other act controls in regard to that provision.

(3) Nothing in this section authorizes the IV-D agency to pursue enforcement action under applicable laws except as otherwise specifically authorized by statute or court rule.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 2001, Act 106, Eff. Sept. 30, 2001;—Am. 2004, Act 206, Eff. Feb. 28, 2005.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.631 Failure or refusal to obey and perform support order; civil contempt proceeding; failure to appear; bench warrant; bond or cash deposit; custody; payment and disposition of costs.

Sec. 31. (1) If a person is ordered to pay support under a support order and fails or refuses to obey and perform the order, and if an order of income withholding is inapplicable or unsuccessful, a recipient of support or the office of the friend of the court may commence a civil contempt proceeding by filing in the circuit court a petition for an order to show cause why the delinquent payer should not be held in contempt. If the payer fails to appear in response to an order to show cause, the court shall do 1 or more of the following:

- (a) Find the payer in contempt for failure to appear.
- (b) Find the payer in contempt for the reasons stated in the motion for the show cause hearing.
- (c) Apply an enforcement remedy authorized under this act or the friend of the court act for the nonpayment of support.
- (d) Issue a bench warrant for the payer's arrest requiring that the payer be brought before the court without unnecessary delay for further proceedings in connection with the show cause or contempt proceedings.
- (e) Adjourn the hearing.
- (f) Dismiss the order to show cause if the court determines that the payer is not in contempt.

(2) In a bench warrant issued under this section, the court shall decree that the payer is subject to arrest if apprehended or detained anywhere in this state and shall require that, upon arrest, unless the payer deposits a cash performance bond in the manner required by section 32, the payer shall remain in custody until the time of the hearing. The court shall specify in the bench warrant the cash performance bond amount. The court shall set the cash performance bond at not less than \$500.00 or 25% of the arrearage, whichever is greater. At its own discretion, the court may set the cash performance bond at an amount up to 100% of the arrearage and add to the amount of the required deposit the amount of the costs the court may require under subsection (3). If a payer is arrested on a felony warrant issued for a violation of section 165 of the Michigan penal code, 1931 PA 328, MCL 750.165, unless the payer deposits a cash performance bond in the manner required by section 32, the court shall require that, upon arrest, the payer remain in custody until the time of the preliminary examination. Upon notification that a payer who has an outstanding bench warrant under this section has been arrested or arraigned on a felony warrant for a violation of section 165 of the Michigan penal code, 1931 PA 328, MCL 750.165, the court may order that the bench warrant be recalled.

(3) If the court issues a bench warrant under this section, except for good cause shown on the record, the court shall order the payer to pay the costs related to the hearing, issuance of the warrant, arrest, and further hearings. Those costs and costs ordered for failure to appear under section 32 or 44 shall be transmitted to the county treasurer for distribution as required in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1983, Act 108, Imd. Eff. July 1, 1983;—Am. 1996, Act 301, Eff. Jan. 1, 1997;—Am. 2000, Act 442, Eff. Apr. 1, 2001;—Am. 2002, Act 567, Eff. June 1, 2003;—Am. 2004, Act 569, Imd. Eff. Jan. 3, 2005.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.633 Finding payer in contempt; presumption; proof of currently available resources; orders; noncompliance with arrearage payment schedule; suspension of license.

Sec. 33. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that the payer has the capacity to pay out of currently available resources all or some portion of the amount due under the support order. In the absence of proofs to the contrary introduced by the payer, the court shall presume that the payer has currently available resources equal to 4 weeks of payments under the support order. The court shall not find that the payer has currently available resources of more than 4 weeks of payments without proof of those resources by the office of the friend of the court or the recipient of support. Upon finding a payer in contempt of court under this section, the court may immediately enter an order doing 1 or more of the following:

- (a) Committing the payer to the county jail.
- (b) Committing the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to go to and return from his or her place of employment.
- (c) Committing the payer to a penal or correctional facility in this state that is not operated by the state department of corrections.
- (d) If the payer holds an occupational license, driver's license, or recreational or sporting license, conditioning a suspension of the payer's license, or any combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

(e) Ordering the payer to participate in a work activity. This subdivision does not alter the court's authority to include provisions in an order issued under this section concerning a payer's employment or his or her seeking of employment as that authority exists on August 10, 1998.

(f) If available within the court's jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(g) Except as provided by federal law and regulations, ordering the parent to pay a fine of not more than \$100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

(2) If the court enters an order under subsection (1)(d) and the payer fails to comply with the arrearage payment schedule, after notice and opportunity for a hearing, the court shall order suspension of the payer's license or licenses with respect to which the order under subsection (1)(d) was entered and shall proceed under section 30.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1996, Act 239, Eff. Jan. 1, 1997;—Am. 1996, Act 336, Eff. Jan. 1, 1997;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2002, Act 567, Eff. June 1, 2003;—Am. 2004, Act 206, Eff. Feb. 28, 2005.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.635 Finding payer in contempt; orders; release from county jail of unemployed payer who finds employment; noncompliance with arrearage payment schedule; suspension of license.

Sec. 35. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and 1 of the following:

(a) The court is satisfied that by the exercise of diligence the payer could have the capacity to pay all or some portion of the amount due under the support order and that the payer fails or refuses to do so.

(b) The payer has failed to obtain a source of income and has failed to participate in a work activity after referral by the friend of the court.

(2) Upon finding a payer in contempt of court under this section, the court shall, absent good cause to the contrary, immediately order the payer to participate in a work activity and may also do 1 or more of the following:

(a) Commit the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to participate in a work activity.

(b) If the payer holds an occupational license, driver's license, or recreational or sporting license, condition a suspension of the payer's license, or a combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

(c) If available within the court's jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(d) Except as provided by federal law and regulations, order the parent to pay a fine of not more than \$100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

(3) Notwithstanding the length of commitment imposed under this section, the court may release a payer who is unemployed if committed to a county jail under this section and who finds employment if either of the following applies:

(a) The payer is self-employed, completes 2 consecutive weeks at his or her employment, and makes a support payment as required by the court.

(b) The payer is employed and completes 2 consecutive weeks at his or her employment and an order of income withholding is effective.

(4) If the court enters an order under subsection (2)(b) and the payer fails to comply with the arrearage payment schedule, after notice and an opportunity for a hearing, the court shall order suspension of the payer's license or licenses with respect to which the order under subsection (2)(b) was entered and shall proceed under section 30.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1996, Act 239, Eff. Jan. 1, 1997;—Am. 1996, Act 336, Eff. Jan. 1, 1997;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2002, Act 567, Eff. June 1, 2003;—Am. 2004, Act 206, Eff. Feb. 28, 2005.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.637 Order of commitment.

Sec. 37. (1) An order of commitment under section 33 or 35 shall be entered only if other remedies appear unlikely to correct the payer's failure or refusal to pay support.

(2) An order of commitment under section 33 shall separately state both of the following:

(a) The amount of the arrearage under the support order.

(b) The amount to be paid by the payer in order to be released from the order of commitment, which amount may not be greater than the payer's currently available resources as found by the court.

(3) An order of commitment under section 35 shall separately state both of the following:

(a) The amount of arrearage under the support order.

(b) The amount to be paid in order to be released from the order of commitment.

(4) A commitment shall continue until the amount ordered to be paid under subsection (2)(b) or (3)(b) is paid but shall not exceed 45 days for the first adjudication of contempt or 90 days for a subsequent adjudication of contempt.

(5) The court may further direct that a portion or all of the earnings of the payer in the facility or institution shall be paid to and applied for support until the payer complies with the order of the court, until the payer is released pursuant to this section from an order of commitment, or until the further order of the court. If it appears that the department has contributed towards the support of the minor child or children during the period of noncompliance with the order of the court, the court, in the contempt proceedings, may order all or part of a lump sum payment to the office of the friend of the court, state disbursement unit, or county clerk to be paid to the department not to exceed the amount of the contribution made by the department. The court may order the money paid to the person or persons entitled to the money in weekly or monthly installments by the office of the friend of the court, SDU, or county clerk to the extent that the court considers installments necessary for support.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1999, Act 160, Imd. Eff. Nov. 3, 1999.

Constitutionality: An indigent defendant may not be incarcerated following a contempt proceeding for failure to pay child support where the assistance of counsel has been denied. *Mead v. Batchlor*, 435 Mich. 480, 460 N.W.2d 493 (1990).

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.641 Complaint alleging custody or parenting time order violation; duties of friend of court; declining to respond to violation; circumstances; compliance with § 552.519.

Sec. 41. (1) For a friend of the court case, a friend of the court shall do 1 or more of the following in response to an alleged custody or parenting time order violation stated in a complaint submitted under section 11b of the friend of the court act, MCL 552.511b:

(a) Apply a makeup parenting time policy established under section 42.

(b) Commence civil contempt proceedings under section 44.

(c) File a motion with the court under section 17d of the friend of the court act, MCL 552.517d, for a modification of existing parenting time provisions to ensure parenting time, unless contrary to the best interests of the child.

(d) Schedule mediation subject to section 13 of the friend of the court act, MCL 552.513.

(e) Schedule a joint meeting subject to section 42a.

(2) Notwithstanding the requirement of subsection (1), the office of the friend of the court may decline to respond to an alleged custody or parenting time order violation under any of the following circumstances:

(a) The party submitting the complaint has previously submitted 2 or more complaints alleging custody or parenting time order violations that were found to be unwarranted, costs were assessed against the party because a complaint was found to be unwarranted, and the party has not paid those costs.

(b) The alleged custody or parenting time order violation occurred more than 56 days before the complaint is submitted.

(c) The custody or parenting time order does not include an enforceable provision that is relevant to the custody or parenting time order violation alleged in the complaint.

(3) This section shall be implemented in compliance with the guidelines developed as required in section 19 of the friend of the court act, MCL 552.519.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1996, Act 25, Eff. June 1, 1996;—Am. 2002, Act 568, Eff. Dec. 1, 2002.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.642 Makeup parenting time policy; establishment; approval; provisions of policy; notice; response; procedures.

Sec. 42. (1) Each circuit shall establish a makeup parenting time policy under which a parent who has been wrongfully denied parenting time is able to make up the parenting time at a later date. The policy does not apply until it is approved by the chief circuit judge. A makeup parenting time policy established under this section shall provide all of the following:

(a) That makeup parenting time shall be at least the same type and duration of parenting time as the parenting time that was denied, including, but not limited to, weekend parenting time for weekend parenting time, holiday parenting time for holiday parenting time, weekday parenting time for weekday parenting time, and summer parenting time for summer parenting time.

(b) That makeup parenting time shall be taken within 1 year after the wrongfully denied parenting time was to have occurred.

(c) That the wrongfully denied parent shall choose the time of the makeup parenting time.

(d) That the wrongfully denied parent shall notify both the office of the friend of the court and the other parent in writing not less than 1 week before making use of makeup weekend or weekday parenting time or not less than 28 days before making use of makeup holiday or summer parenting time.

(2) If wrongfully denied parenting time is alleged and the friend of the court determines that action should be taken, the office of the friend of the court shall send each party a notice containing the following statement in boldfaced type of not less than 12 points:

“FAILURE TO RESPOND IN WRITING TO THE OFFICE OF THE FRIEND OF THE COURT WITHIN 21 DAYS AFTER THIS NOTICE WAS SENT SHALL BE CONSIDERED AS AN AGREEMENT THAT PARENTING TIME WAS WRONGFULLY DENIED AND THAT THE MAKEUP PARENTING TIME POLICY ESTABLISHED BY THE COURT WILL BE APPLIED.”.

(3) If a party to the parenting time order does not respond in writing to the office of the friend of the court, within 21 days after the office sends the notice required under subsection (2), to contest the application of the makeup parenting time policy, the office of the friend of the court shall notify each party that the makeup parenting time policy applies. If a party makes a timely response to contest the application of the makeup parenting time policy, the office of the friend of the court shall utilize a procedure authorized under section 41 other than the application of the makeup parenting time policy.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1996, Act 25, Eff. June 1, 1996;—Am. 2002, Act 568, Eff. Dec. 1, 2002.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)
Act 295 of 1982

552.644 Civil contempt proceeding to resolve dispute concerning parenting time of minor child; commencement by office of friend of court; notice; finding of violation; powers of court; duration of commitment; release; bench warrant; sanction for bad faith; judgment; payment of costs.

Sec. 44. (1) If the office of the friend of the court determines that a procedure for resolving a parenting time dispute authorized under section 41 other than a civil contempt proceeding is unsuccessful in resolving a parenting time dispute, the office of the friend of the court shall commence a civil contempt proceeding to resolve a dispute concerning parenting time with a minor child by filing with the circuit court a petition for an order to show cause why either parent who has violated a parenting time order should not be held in contempt. The office of the friend of the court shall notify the parent who is the subject of the petition. The notice shall include at least all of the following:

(a) A list of each possible sanction if the parent is found in contempt.

(b) The right of the parent to a hearing on a proposed modification of parenting time if requested within 21 days after the date of the notice, as provided in section 45.

(2) If the court finds that either parent has violated a parenting time order without good cause, the court shall find that parent in contempt and may do 1 or more of the following:

(a) Require additional terms and conditions consistent with the court's parenting time order.

(b) After notice to both parties and a hearing, if requested by a party, on a proposed modification of parenting time, modify the parenting time order to meet the best interests of the child.

(c) Order that makeup parenting time be provided for the wrongfully denied parent to take the place of wrongfully denied parenting time.

- (d) Order the parent to pay a fine of not more than \$100.00.
- (e) Commit the parent to the county jail.
- (f) Commit the parent to the county jail with the privilege of leaving the jail during the hours the court determines necessary, and under the supervision the court considers necessary, for the purpose of allowing the parent to go to and return from his or her place of employment.
- (g) If the parent holds an occupational license, driver's license, or recreational or sporting license, condition the suspension of the license, or any combination of the licenses, upon noncompliance with an order for makeup and ongoing parenting time.
- (h) If available within the court's jurisdiction, order the parent to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.
- (3) The court shall state on the record the reason the court is not ordering a sanction listed in subsection (2)(a) to (h). For the purpose of subsection (2), "good cause" includes, but is not limited to, consideration of the safety of a child or party who is governed by the parenting time order.
- (4) A commitment under subsection (2)(e) or (f) shall not exceed 45 days for the first finding of contempt or 90 days for each subsequent finding of contempt. A parent committed under subsection (2)(e) or (f) shall be released if the court has reasonable cause to believe that the parent will comply with the parenting time order.
- (5) If a parent fails to appear in response to an order to show cause, the court may issue a bench warrant requiring that the parent be brought before the court without unnecessary delay to show cause why the parent should not be held in contempt. Except for good cause shown on the record, the court shall further order the parent to pay the costs of the hearing, the issuance of the warrant, the arrest, and further hearings, which costs shall be transmitted to the county treasurer for distribution as provided in section 31.
- (6) If the court finds that a party to a parenting time dispute has acted in bad faith, the court shall order the party to pay a sanction of not more than \$250.00 for the first time the party is found to have acted in bad faith, not more than \$500.00 for the second time, and not more than \$1,000.00 for the third or a subsequent time. A sanction ordered under this subsection shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530, and shall be used to fund services that are not title IV-D services.
- (7) A fine ordered under subsection (2), costs ordered under subsection (5), or a sanction ordered under subsection (6) becomes a judgment at the time they are ordered.
- (8) If the court finds that a party to a parenting time dispute has acted in bad faith, the court shall order the party to pay the other party's costs.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1985, Act 210, Eff. Mar. 1, 1986;—Am. 1996, Act 25, Eff. June 1, 1996;—Am. 1996, Act 235, Eff. Jan. 1, 1997;—Am. 1996, Act 239, Eff. Jan. 1, 1997;—Am. 1996, Act 301, Eff. Jan. 1, 1997;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2002, Act 568, Eff. Dec. 1, 2002.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.645 Finding of contempt for noncompliance with makeup and ongoing parenting time schedule; suspension of license; agreement; rescission of suspension order; sending copy to licensing agency; hearing to show cause; hearing on modification of parenting time.

Sec. 45. (1) If the court enters an order under section 44(2)(g) and the parent fails to comply with the makeup and ongoing parenting time schedule, the court shall find the parent in contempt and, after notice and an opportunity for a hearing, may order suspension of the parent's license or licenses with respect to which the order under section 44(2)(g) was entered and proceed under section 30.

(2) After entry of a suspension order under subsection (1), a parent may agree to a makeup parenting time schedule. The court may order a makeup parenting time schedule if the parent demonstrates a good faith effort to comply with the parenting time order. If the court orders a makeup parenting time schedule, the court shall enter an order rescinding the suspension order that is effective as provided in section 4 of the regulated occupation support enforcement act, 1996 PA 236, MCL 338.3434, section 321c of the Michigan vehicle code, 1949 PA 300, MCL 257.321c, or section 43559 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43559. Within 7 business days after entry of the order rescinding the suspension order, the office of the friend of the court shall send a copy of the order rescinding the suspension order to the licensing agency.

(3) Within 21 days after the date of the notice under section 44, a parent who is notified of a petition to show cause under section 44 may request a hearing on a proposed modification of parenting time. The court shall hold the requested hearing unless the parenting time dispute is resolved by other means. The court shall

combine the hearing prescribed by this subsection with the hearing on the order to show cause unless the court finds for good cause shown on the record that the hearings should be held separately. If the court finds that the hearings should be held separately, the hearing on a proposed modification of parenting time shall be held before the hearing on the order to show cause.

History: Add. 1996, Act 239, Eff. Jan. 1, 1997;—Am. 1998, Act 334, Imd. Eff. Aug. 10, 1998;—Am. 2002, Act 568, Eff. Dec. 1, 2002.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.646 Custodial parent committed to jail under § 552.644(2)(e); violation of conditions of court; commitment to county jail without privilege; failure to return to place of confinement as escape from custody; misdemeanor; penalty.

Sec. 46. (1) If a custodial parent is committed to jail under section 44(2)(e) and violates the conditions of the court, the court shall commit the person to the county jail without the privilege provided under section 44(2)(e) for the balance of the period of commitment imposed by the court.

(2) If a custodial parent is committed to jail under section 44(2)(e) and fails to return to the place of confinement within the time prescribed, the custodial parent shall be considered to have escaped from custody and shall be guilty of a misdemeanor, punishable by imprisonment for not more than 1 year.

History: 1982, Act 295, Eff. July 1, 1983.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.648 Transition to centralized receipt and disbursement of support and fees.

Sec. 48. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

History: 1982, Act 295, Eff. July 1, 1983;—Am. 1999, Act 160, Imd. Eff. Nov. 3, 1999.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.649 Conditional effective date.

Sec. 49. This act shall not take effect unless the following bills of the 81st Legislature are enacted into law:

- (a) House Bill No. 4870.
- (b) House Bill No. 4873.
- (c) House Bill No. 5257.

History: 1982, Act 295, Eff. July 1, 1983.

Compiler's note: The following House Bills referred to in this section, were enacted into law as follows:

House Bill No. 4870 was approved by the Governor on October 9, 1982, and became P.A. 1982, No. 294, Eff. July 1, 1983.

House Bill No. 4873 was approved by the Governor on October 9, 1982, and became P.A. 1982, No. 296, Eff. July 1, 1983.

House Bill No. 5257 was approved by the Governor on October 9, 1982, and became P.A. 1982, No. 297, Eff. July 1, 1983.

SUPPORT AND PARENTING TIME ENFORCEMENT ACT (EXCERPT)

Act 295 of 1982

552.650 Effective date.

Sec. 50. Except as provided in section 49, this act shall take effect July 1, 1983.

History: 1982, Act 295, Eff. July 1, 1983.

INTERSTATE INCOME WITHHOLDING ACT (EXCERPT)

Act 216 of 1985

552.673 Definitions.

Sec. 3. As used in this act:

(a) "Agency" means the court or entity in another jurisdiction with functions similar to those assigned in this act to the office of the friend of the court and the office of child support relative to the issuance and enforcement of support orders.

(b) "Child" means a child, whether above or below the age of majority, with respect to whom a support order exists.

(c) "Court" means the circuit court of this state and, when the context requires, the court or entity of another jurisdiction with functions similar to those assigned in this act to the circuit court of this state relative to the issuance and enforcement of support orders.

(d) "Income" means income as defined in section 2 of the support and parenting time enforcement act, MCL 552.602.

(e) "Income derived in this jurisdiction" means income, the source of income of which is subject to the jurisdiction of this state for the purpose of imposing and enforcing income withholding under the support and parenting time enforcement act.

(f) "Jurisdiction" means a state or political subdivision, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

(g) "Obligee" means a person or entity that is entitled to receive support under a support order, and includes an entity of another jurisdiction to which a person has assigned his or her right to support.

(h) "Obligor" means a person required to make payments under the terms of a support order for a child, spouse, or former spouse.

(i) "Office of child support" means the entity established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(j) "Office of the friend of the court" means an office created in section 3 of the friend of the court act, 1982 PA 294, MCL 552.503.

(k) "Order of income withholding" means order of income withholding as defined in section 2 of the support and parenting time enforcement act, MCL 552.602, or the equivalent document issued in another jurisdiction.

(l) "Source of income" means source of income as defined in section 2 of the support and parenting time enforcement act, MCL 552.602.

(m) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(n) "Support and parenting time enforcement act" means 1982 PA 295, MCL 552.601 to 552.650.

(o) "Support order" means an order or judgment for the support, or for the payment of arrearages on the support, of a child, spouse, or former spouse issued by a court or agency of another jurisdiction, whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, separate maintenance, paternity, guardianship, or equivalent proceeding, or otherwise.

History: 1985, Act 216, Eff. Mar. 1, 1986;—Am. 1996, Act 11, Eff. June 1, 1996;—Am. 1999, Act 154, Imd. Eff. Nov. 3, 1999.

INTERSTATE INCOME WITHHOLDING ACT (EXCERPT)

Act 216 of 1985

552.676 Office of child support to forward documentation to office of friend of court; filing documents with clerk of court; acceptance of documents as entry of support order; documentation required for entry of support order of another jurisdiction; remedying defect in documentation; notice of necessary additions or corrections; effect of meeting substantive requirement; enforcement of support order; jurisdiction limited to income withholding.

Sec. 6. (1) Upon receiving a support order of another jurisdiction with the documentation specified in subsection (2) from an agency, an obligee, an obligor, or an attorney for either, the office of child support shall forward the documentation to the office of the friend of the court in the county in which withholding is being sought and the office of the friend of the court shall file the documents with the clerk of the court in that county. The clerk of the court shall accept the documents filed and the acceptance constitutes entry of the support order only for the purposes of this act.

(2) The following documentation is required for the entry of a support order of another jurisdiction:

(a) A certified copy of the support order with all modifications.

(b) A certified copy of an order of income withholding still in effect, if any.

(c) A copy of the portion of the income withholding statute of the jurisdiction that issued the support order that states the amount of arrearages necessary to mandate income withholding under the law of that jurisdiction.

(d) A sworn statement of the obligee or certified statement of the agency of the amount of arrearages, including the approximate dates the arrearages accrued, and the assignment of support rights, if any.

(e) A statement of all of the following:

(i) The name, address, and social security number of the obligor, if known.

(ii) The name and address of the obligor's employer or of any other source of income of the obligor derived in this state against which income withholding is sought.

(iii) The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

(iv) The amount of income withholding requested.

(f) A statement of eligibility for services under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 669, signed by the obligee.

(g) A copy of proof of service or other evidence that the court or agency that issued the support order had personal jurisdiction over the obligor.

(h) Notification of any known support orders involving the same parties and the same children.

(3) If the documentation received by the office of child support under subsection (1) does not conform to the requirements of subsection (2), the office of child support shall remedy any defect that it can without the assistance of the requesting agency or party. If the office of child support is unable to make such corrections, the office of child support shall immediately notify the requesting agency or party of the necessary additions or corrections. In neither case shall the documentation be returned. If the substantive requirements of subsection (2) are met, the office of child support and the clerk of the court shall accept the documentation required by subsection (2), even if the documentation is not in the usual form required by this state.

(4) Except as otherwise provided in sections 7 to 13, a support order entered under subsection (1) is enforceable by income withholding against income derived in this state in the same manner and with the same effect as provided in sections 7 to 23 of the support and parenting time enforcement act, being sections 552.607 to 552.623 of the Michigan Compiled Laws, for support orders entered in this state. Entry of the order does not confer jurisdiction on the courts of this state for any purpose other than income withholding.

History: 1985, Act 216, Eff. Mar. 1, 1986;—Am. 1996, Act 11, Eff. June 1, 1996.

INTERSTATE INCOME WITHHOLDING ACT (EXCERPT)

Act 216 of 1985

552.680a Transition to centralized receipt and disbursement of support and fees.

Sec. 10a. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

History: Add. 1999, Act 154, Imd. Eff. Nov. 3, 1999.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)

Act 310 of 1996

552.1104 Definitions; R to T.

Sec. 104. As used in this act:

(a) "Register" means to file a support order or judgment determining parentage in the circuit court.

(b) "Registering tribunal" means a tribunal in which a support order is registered.

(c) "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this act or a law or procedure substantially similar to this act, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(d) "Responding tribunal" means the authorized tribunal in a responding state.

(e) "Spousal support order" means a support order for an obligor's spouse or former spouse.

(f) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. State includes an Indian tribe and a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this act, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(g) "Support enforcement act" means this act, the uniform reciprocal enforcement of support act, the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183, or another act substantially similar to 1 of those acts that is in effect in this or another state. Support enforcement act includes a former act substantially similar to an act described in this subdivision under which an order was issued or proceeding initiated, which order or proceeding remains operative.

(h) "Support enforcement agency" means a public official or agency authorized to seek any of the following:

(i) Enforcement of support orders or laws relating to the duty of support.

(ii) Establishment or modification of child support.

(iii) Determination of parentage.

(iv) Location of obligors or their assets.

(i) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, spouse, or former spouse that provides for monetary support, health care, arrearages, or reimbursement and may include related costs and fees, interest, income withholding, attorney fees, and other relief.

(j) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or determine parentage.

History: 1996, Act 310, Eff. June 1, 1997;—Am. 1998, Act 65, Imd. Eff. Apr. 27, 1998.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)

Act 310 of 1996

552.1224 Issuance of support order; continuing exclusive jurisdiction; modification; recognition of jurisdiction of another state; temporary ex parte order; duration of jurisdiction; modification.

Sec. 224. (1) A tribunal of this state that issues a support order consistent with this state's law has continuing, exclusive jurisdiction over a child support order in either of the following circumstances:

(a) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued.

(b) Until all parties who are individuals have filed written consent with this state's tribunal for another state's tribunal to modify the order and assume continuing, exclusive jurisdiction.

(2) A tribunal of this state that issues a child support order consistent with this state's law shall not exercise its continuing jurisdiction to modify the order if the order has been modified by another state's tribunal under a law substantially similar to this act.

(3) If a child support order of this state is modified by another state's tribunal under a law substantially similar to this act, this state's tribunal loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state and may only do 1 or more of the following:

(a) Enforce the order that was modified as to amounts accruing before the modification.

(b) Enforce nonmodifiable aspects of that order.

(c) Provide other appropriate relief for violations of that order that occurred before the modification's effective date.

(4) This state's tribunal shall recognize the continuing, exclusive jurisdiction of a tribunal of another state that issues a child support order under a law substantially similar to this act.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(6) A tribunal of this state that issues a support order consistent with this state's law has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. This state's tribunal shall not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

History: 1996, Act 310, Eff. June 1, 1997;—Am. 1998, Act 65, Imd. Eff. Apr. 27, 1998.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)

Act 310 of 1996

552.1231 Issuance of 1 or more child support orders; determining recognition of orders for purposes of jurisdiction.

Sec. 231. (1) If a proceeding is brought under this act and only 1 tribunal has issued a child support order, the order of that tribunal controls and shall be recognized.

(2) If a proceeding is brought under this act and 2 or more child support orders have been issued by tribunals of this state or another state for the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(a) If only 1 of the tribunals would have continuing, exclusive jurisdiction under this act, the order of that tribunal controls and shall be recognized.

(b) If more than 1 of the tribunals would have continuing, exclusive jurisdiction under this act, an order issued by a tribunal in the current home state of the child controls and shall be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and shall be recognized.

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this act, the tribunal of this state having jurisdiction over the parties shall issue a child support order, which controls and shall be recognized.

(3) If 2 or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and is recognized under subsection (2). The request shall be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(4) The tribunal that issued the controlling order under subsection (1), (2), or (3) is the tribunal that has continuing, exclusive jurisdiction under this act.

(5) A tribunal of this state that determines by order the identity of the controlling order under subsection (2)(a) or (b) or that issues a new controlling order under subsection (2)(c) shall state in that order the basis upon which the tribunal made its determination.

(6) Within 30 days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

History: 1996, Act 310, Eff. June 1, 1997;—Am. 1998, Act 65, Imd. Eff. Apr. 27, 1998.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)
Act 310 of 1996

552.1233 Enforcement of multiple registrations or petitions for enforcement.

Sec. 233. In responding to multiple registrations or petitions for enforcement of 2 or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least 1 of which was issued by another state's tribunal, this state's tribunal shall enforce those orders in the same manner as if the multiple orders had been issued by this state's tribunal.

History: 1996, Act 310, Eff. June 1, 1997.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)
Act 310 of 1996

552.1301 Applicability of act to proceedings; commencement of proceeding.

Sec. 301. (1) Except as otherwise provided in this act, this article applies to all proceedings under this act.

(2) This act provides for the following proceedings:

(a) Establishment of an order for spousal support or child support under article IV.

(b) Enforcement of another state's support order and income withholding order without registration under article V.

(c) Registration of another state's order for spousal support or child support for enforcement under article VI.

(d) Modification of an order for child support or spousal support issued by this state's tribunal under article II, part 2.

(e) Registration of another state's order for child support for modification under article VI.

(f) Determination of parentage under article VII.

(g) Assertion of jurisdiction over nonresidents under article II, part 1.

(3) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this act by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state that has or can obtain personal jurisdiction over the respondent.

History: 1996, Act 310, Eff. June 1, 1997.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)
Act 310 of 1996

552.1308 Receipt of petitions or pleadings by responding tribunal; duties; authority; orders.

Sec. 308. (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly under section 301, the tribunal shall do all of the following:

- (a) Cause the petition or pleading to be filed.
- (b) Notify the petitioner by first-class mail where and when it was filed.
- (c) Notify the prosecuting attorney or the office of the friend of the court. If notified under this subdivision, the prosecuting attorney or friend of the court shall conduct proceedings as appropriate under this act.

(2) A responding tribunal of this state, to the extent otherwise authorized by law, may do 1 or more of the following:

- (a) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage.
- (b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance.
- (c) Order income withholding.
- (d) Determine the amount of an arrearage and specify a method of payment.
- (e) Enforce an order by civil or criminal contempt, or both.
- (f) Set aside property for satisfaction of a support order.
- (g) Place liens and order execution on an obligor's property.
- (h) Order an obligor to keep the tribunal informed of the obligor's current residential address and telephone number, employer, and employment address and telephone number.
- (i) Issue a bench warrant for an obligor who fails after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in the L.E.I.N.
- (j) Order an obligor to seek appropriate employment by specified methods.
- (k) Award reasonable attorney fees and other fees and costs.
- (l) Grant another available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this act or in the documents accompanying the order the calculations on which the support order is based.

(4) A responding tribunal of this state shall not condition the payment of a support order issued under this act upon compliance by a party with provisions for parenting time.

(5) If a responding tribunal of this state issues an order under this act, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

History: 1996, Act 310, Eff. June 1, 1997;—Am. 1998, Act 65, Imd. Eff. Apr. 27, 1998.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT) **Act 310 of 1996**

552.1316 Office of child support as state information agency.

Sec. 316. The office of child support established under the office of child support act, Act No. 174 of the Public Acts of 1971, being sections 400.231 to 400.235 of the Michigan Compiled Laws, is this state's information agency under this act. The state information agency shall do all of the following:

- (a) Compile and maintain a current list, including addresses, of this state's tribunals that have jurisdiction under this act and any support enforcement agencies in this state and transmit a copy to every other state's information agency.
- (b) Maintain a register of tribunals and support enforcement agencies received from other states.
- (c) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this act received from an initiating tribunal or the initiating state's information agency of the initiating state.
- (d) Obtain information concerning the obligor's location of the obligor and the obligor's property within this state not exempt from execution by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver licenses, and social security.

History: 1996, Act 310, Eff. June 1, 1997.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT) **Act 310 of 1996**

552.1328 Physical presence of petitioner not required; documents admissible as evidence; testimony.

Sec. 328. (1) The petitioner's physical presence in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining

parentage.

(2) A verified petition, affidavit, document substantially complying with federally mandated forms, or document incorporated by reference in any of them that would not be excluded as hearsay if given in person is admissible in evidence if given under oath by a party or witness residing in another state.

(3) A copy of a record of child support payments certified as a true copy of the original by the record's custodian may be forwarded to a responding tribunal. The copy is evidence of the facts asserted in it and is admissible to show whether payments were made.

(4) If furnished to the adverse party at least 10 days before trial, a copy of a bill for testing for parentage, or for the mother's or child's prenatal or postnatal health care, is admissible in evidence to prove the amount billed and that the amount is reasonable, necessary, and customary.

(5) Documentary evidence transmitted from another state to this state's tribunal by telephone, telecopier, or other means that does not provide an original writing shall not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under this act, this state's tribunal may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. This state's tribunal shall cooperate with other states' tribunals in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this act. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this act.

History: 1996, Act 310, Eff. June 1, 1997.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT) **Act 310 of 1996**

552.1401 Issuance of support order.

Sec. 401. (1) If a support order entitled to recognition under this act has not been issued, a responding tribunal of this state may issue a support order if either of the following is true:

- (a) The individual seeking the order resides in another state.
 - (b) The support enforcement agency seeking the order is located in another state.
- (2) The tribunal may issue a temporary child support order if any of the following are true:
- (a) The respondent has signed a verified statement acknowledging parentage.
 - (b) The respondent has been determined by law to be the child's parent.
 - (c) There is other clear and convincing evidence that the respondent is the child's parent.

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders as authorized in section 308.

History: 1996, Act 310, Eff. June 1, 1997.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT) **Act 310 of 1996**

552.1501 Order of income withholding.

Sec. 501. (1) An income withholding order issued in another state may be sent to the obligor's employer without first filing a petition or comparable pleading or registering the order with this state's tribunal. Upon receipt of an income withholding order, the obligor's employer shall do all of the following:

(a) Treat an income withholding order issued in another state that appears regular on its face as if the order had been issued by this state's tribunal.

(b) Immediately provide a copy of the order to the obligor.

(2) Except as otherwise provided in subsection (3) and section 501a, the employer shall withhold and distribute the funds directed in the withholding order by complying with the terms of the order that specify the following:

(a) The duration and amount of periodic payments of current child support, stated as a sum certain.

(b) The person or agency designated to receive payments and the address where the payments are to be forwarded.

(c) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health coverage for the child under coverage available through the obligor's employment.

(d) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain.

(e) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(3) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income for all of the following:

(a) The employer's fee for processing an income withholding order.

(b) The maximum amount permitted to be withheld from the obligor's income.

(c) The time within which the employer must implement the withholding order and forward the child support payment.

History: 1996, Act 310, Eff. June 1, 1997;—Am. 1998, Act 65, Imd. Eff. Apr. 27, 1998.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)
Act 310 of 1996

552.1501a Multiple income withholding orders; priorities.

Sec. 501a. If an obligor's employer receives multiple income withholding orders for the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

History: Add. 1998, Act 65, Imd. Eff. Apr. 27, 1998.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)
Act 310 of 1996

552.1501b Income withholding order issued in another state; compliance.

Sec. 501b. An employer who complies with an income withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency for the employer's withholding of child support from the obligor's income.

History: Add. 1998, Act 65, Imd. Eff. Apr. 27, 1998.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)
Act 310 of 1996

552.1631 Modification of order issued in another state; petition.

Sec. 631. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in part 1 of this article if the order has not been registered. A petition for modification may be filed at the same time as a registration request or later. The pleading shall specify the grounds for modification.

History: 1996, Act 310, Eff. June 1, 1997.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)
Act 310 of 1996

552.1633 Enforcement of another state's child support order.

Sec. 633. This state's tribunal may enforce another state's child support order registered for purposes of modification in the same manner as if the order had been issued by this state's tribunal, but the registered order may be modified only if the requirements of section 635 are met.

History: 1996, Act 310, Eff. June 1, 1997.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)
Act 310 of 1996

552.1635 Modification of another state's child support order; finding by responding tribunal; requirements, procedures, and defenses; jurisdiction.

Sec. 635. (1) After another state's child support order is registered in this state, the responding tribunal of this state may modify that order only if section 231 does not apply and, after notice and hearing, the tribunal finds 1 of the following:

(a) All of the following requirements are met:

(i) The child, the individual obligee, and the obligor do not reside in the issuing state.

(ii) A petitioner who is a nonresident of this state seeks modification.

(iii) The respondent is subject to the personal jurisdiction of this state's tribunal.

(b) The child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed written consent in the issuing tribunal for a tribunal

of this state to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this act, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by this state's tribunal, and the order may be enforced and satisfied in the same manner. This state's tribunal shall not modify an aspect of a child support order that cannot be modified under the issuing state's law. If 2 or more tribunals have issued child support orders for the same obligor and child, the order that controls and shall be recognized under this act establishes the aspects of the support order that are nonmodifiable.

(3) On issuance of an order modifying a child support order issued in another state, this state's tribunal becomes the tribunal of continuing, exclusive jurisdiction.

History: 1996, Act 310, Eff. June 1, 1997;—Am. 1998, Act 65, Imd. Eff. Apr. 27, 1998.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)

Act 310 of 1996

552.1637 Recognition of modification.

Sec. 637. This state's tribunal shall recognize a modification of its earlier child support order by a tribunal of another state that assumed jurisdiction under a law substantially similar to this act and, upon request and except as otherwise provided in this act, shall do all of the following:

- (a) Enforce the order that was modified only as to an amount accruing before the modification.
- (b) Enforce only nonmodifiable aspects of that order.
- (c) Provide other appropriate relief only for a violation of that order that occurred before the modification's effective date.
- (d) Recognize the other state's modifying order, upon registration, for the purpose of enforcement.

History: 1996, Act 310, Eff. June 1, 1997.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)

Act 310 of 1996

552.1638 Child not resident of issuing state; jurisdiction.

Sec. 638. (1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of articles I and II, this article, and the procedural and substantive law of this state to the proceedings for enforcement or modification. Articles III, IV, V, VII, and VIII do not apply.

History: Add. 1998, Act 65, Imd. Eff. Apr. 27, 1998.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (EXCERPT)

Act 310 of 1996

552.1639 Issuance of modified child support order; failure to file with issuing tribunal.

Sec. 639. Within 30 days after issuance of a modified child support order, the party obtaining the modifications shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order and in each tribunal in which the party knows the earlier order is registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

History: Add. 1998, Act 65, Imd. Eff. Apr. 27, 1998.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.651-600.673 Repealed. 2001, Act 195, Eff. Apr. 1, 2002.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.705 Limited personal jurisdiction over individuals.

Sec. 705. The existence of any of the following relationships between an individual or his agent and the state shall constitute a sufficient basis of jurisdiction to enable a court of record of this state to exercise

limited personal jurisdiction over the individual and to enable the court to render personal judgments against the individual or his representative arising out of an act which creates any of the following relationships:

- (1) The transaction of any business within the state.
- (2) The doing or causing an act to be done, or consequences to occur, in the state resulting in an action for tort.
- (3) The ownership, use, or possession of real or tangible personal property situated within the state.
- (4) Contracting to insure a person, property, or risk located within this state at the time of contracting.
- (5) Entering into a contract for services to be rendered or for materials to be furnished in the state by the defendant.
- (6) Acting as a director, manager, trustee, or other officer of a corporation incorporated under the laws of, or having its principal place of business within this state.
- (7) Maintaining a domicile in this state while subject to a marital or family relationship which is the basis of the claim for divorce, alimony, separate maintenance, property settlement, child support, or child custody.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 90, Eff. Apr. 1, 1975.

Compiler's note: Section 2 of Act 90 of 1974 provides: "This amendatory act shall apply to an action commenced on or after the effective date of this act regardless of whether or not the cause of action arose prior to the effective date of this act or thereafter."

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.1021 Family division of circuit court; jurisdiction.

Sec. 1021. (1) Except as otherwise provided by law, the family division of circuit court has sole and exclusive jurisdiction over the following cases commenced on or after January 1, 1998:

- (a) Cases of divorce and ancillary matters as set forth in the following statutes:
 - (i) 1846 RS 84, MCL 552.1 to 552.45.
 - (ii) 1909 PA 259, MCL 552.101 to 552.104.
 - (iii) 1911 PA 52, MCL 552.121 to 552.123.
 - (iv) 1913 PA 379, MCL 552.151 to 552.156.
 - (v) The friend of the court act, 1982 PA 294, MCL 552.501 to 552.535.
 - (vi) 1905 PA 299, MCL 552.391.
 - (vii) 1949 PA 42, MCL 552.401 to 552.402.
 - (viii) The family support act, 1966 PA 138, MCL 552.451 to 552.459.
 - (ix) The support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.
 - (x) The interstate income withholding act, 1985 PA 216, MCL 552.671 to 552.685.
 - (b) Cases of adoption as provided in chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.
 - (c) Cases involving certain children incapable of adoption under 1925 PA 271, MCL 722.531 to 722.534.
 - (d) Cases involving a change of name as provided in chapter XI of the probate code of 1939, 1939 PA 288, MCL 711.1 to 711.3.
 - (e) Cases involving juveniles as provided in chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.
 - (f) Cases involving the status of minors and the emancipation of minors under 1968 PA 293, MCL 722.1 to 722.6.
 - (g) Cases of child custody under the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31, and child custody jurisdiction as provided in the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1101 to 722.1406.
 - (h) Cases involving paternity and child support under the paternity act, 1956 PA 205, MCL 722.711 to 722.730.
 - (i) Cases involving parental consent for abortions performed on unemancipated minors under the parental rights restoration act, 1990 PA 211, MCL 722.901 to 722.908.
 - (j) Cases involving child support under the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.
 - (k) Cases involving personal protection orders and foreign protection orders under sections 2950 to 2950m.
- (2) The family division of circuit court has ancillary jurisdiction over the following cases commenced on or after January 1, 1998:
- (a) Cases involving guardians and conservators as provided in article 5 of the estates and protected individuals code, 1998 PA 386, MCL 700.5101 to 700.5520.
 - (b) Cases involving treatment of, or guardianship of, mentally ill or developmentally disabled persons under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(3) A probate judge identified in section 1011 as serving pursuant to the family court plan has the same power and authority, within the county or probate court district in which he or she serves as probate judge, as that of a circuit judge over cases described in subsection (1), in addition to all the power and authority of a judge of the probate court.

History: Add. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2000, Act 56, Eff. Apr. 1, 2000;—Am. 2002, Act 682, Eff. Apr. 1, 2003.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.1701 Neglect or violation of duty or misconduct; power to punish by fine or imprisonment.

Sec. 1701. The supreme court, circuit court, and all other courts of record, have power to punish by fine or imprisonment, or both, persons guilty of any neglect or violation of duty or misconduct in all of the following cases:

(a) Disorderly, contemptuous, or insolent behavior, committed during its sitting, in its immediate view and presence, and directly tending to interrupt its proceedings or impair the respect due to its authority.

(b) Any breach of the peace, noise, or disturbance directly tending to interrupt its proceedings.

(c) All attorneys, counselors, clerks, registers, sheriffs, coroners, and all other persons in any manner elected or appointed to perform any judicial or ministerial services, for any misbehavior in their office or trust, or for any willful neglect or violation of duty, for disobedience of any process of the court, or any lawful order of the court, or any lawful order of a judge of the court or of any officer authorized to perform the duties of the judge.

(d) Parties to actions for putting in fictitious bail or sureties or for any deceit or abuse of the process or proceedings of the court.

(e) Parties to actions, attorneys, counselors, and all other persons for the nonpayment of any sum of money which the court has ordered to be paid.

(f) Parties to actions, attorneys, counselors, and all other persons for disobeying or refusing to comply with any order of the court for the payment of temporary or permanent alimony or support money or costs made in any action for divorce or separate maintenance.

(g) Parties to actions, attorneys, counselors, and all other persons for disobeying any lawful order, decree, or process of the court.

(h) All persons for assuming to be and acting as officers, attorneys, or counselors of any court without authority; for rescuing any property or persons that are in the custody of an officer by virtue of process issued from that court; for unlawfully detaining any witness or party to an action while he or she is going to, remaining at, or returning from the court where the action is pending for trial, or for any other unlawful interference with or resistance to the process or proceedings in any action.

(i) All persons who, having been subpoenaed to appear before or attend, refuse or neglect to obey the subpoena, to attend, to be sworn, or when sworn, to answer any legal and proper interrogatory in any of the following circumstances:

(i) As a witness in any court in this state.

(ii) Any officer of a court of record who is empowered to receive evidence.

(iii) Any commissioner appointed by any court of record to take testimony.

(iv) Any referees or auditors appointed according to the law to hear any cause or matter.

(v) Any notary public or other person before whom any affidavit or deposition is to be taken.

(j) Persons summoned as jurors in any court, for improperly conversing with any party to an action which is to be tried in that court, or with any other person in regard to merits of the action, or for receiving communications from any party to the action or any other person in relation to the merits of the action without immediately disclosing the communications to the court.

(k) All inferior magistrates, officers, and tribunals for disobedience of any lawful order or process of a superior court, or for proceeding in any cause or matter contrary to law after the cause or matter has been removed from their jurisdiction.

(l) The publication of a false or grossly inaccurate report of the court's proceedings, but a court shall not punish as a contempt the publication of true, full, and fair reports of any trial, argument, proceedings, or decision had in the court.

(m) All other cases where attachments and proceedings as for contempts have been usually adopted and practiced in courts of record to enforce the civil remedies of any parties or to protect the rights of any party.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1987, Act 99, Imd. Eff. July 6, 1987;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.2529 Fees paid to clerk of circuit court; sums held as payment in full; payment of fees to county treasurer; deposit to fund created under MCL 400.236a; waiving or suspending fees; affidavit of indigency or inability to pay.

Sec. 2529. (1) In the circuit court, the following fees shall be paid to the clerk of the court:

(a) Before a civil action other than an action brought exclusively under section 2950, 2950a, or 2950h to 2950m is commenced, or before the filing of an application for superintending control or for an extraordinary writ, except the writ of habeas corpus, the party bringing the action or filing the application shall pay the sum of \$150.00. The clerk at the end of each month shall transmit for each fee collected under this subdivision within the month \$31.00 to the county treasurer and the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(b) Before the filing of a claim of appeal or motion for leave to appeal from the district court, probate court, a municipal court, or an administrative tribunal or agency, the sum of \$150.00. For each fee collected under this subdivision, the clerk shall transmit \$31.00 to the county treasurer and the balance of the fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(c) If a trial by jury is demanded, the party making the demand at the time shall pay the sum of \$85.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs. For each fee collected under this subdivision, the clerk shall transmit \$25.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.

(d) Before entry of a final judgment or order in an action in which the custody, support, or parenting time of minor children is determined or modified, the party submitting the judgment or order shall pay 1 of the following fees, which shall be deposited by the county treasurer as provided in section 2530:

(i) In an action in which the custody or parenting time of minor children is determined, \$80.00.

(ii) In an action in which the support of minor children is determined or modified, \$40.00. This fee does not apply when a fee is paid under subparagraph (i). The court may order a party to reimburse to the other party all or a portion of the fee paid by that other party.

(e) Except as otherwise provided in this section, upon the filing of a motion the sum of \$20.00. In conjunction with an action brought under section 2950 or 2950a, a motion fee shall not be collected for a motion to dismiss the petition, a motion to modify, rescind, or terminate a personal protection order, or a motion to show cause for a violation of a personal protection order. A motion fee shall not be collected for a motion to dismiss a proceeding to enforce a foreign protection order or a motion to show cause for a violation of a foreign protection order under sections 2950h to 2950m. A motion fee shall not be collected for a request for a hearing to contest income withholding under section 7 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.607. For each fee collected under this subdivision, the clerk shall transmit \$10.00 to the state treasurer for deposit in the state court fund created by section 151a.

(f) For services under the direction of the court that are not specifically provided for in this section relative to the receipt, safekeeping, or expending of money, or the purchasing, taking, or transferring of a security, or the collecting of interest on a security, the clerk shall receive the allowance and compensation from the parties as the court may consider just and shall direct by court order, after notice to the parties to be charged.

(g) Upon appeal to the court of appeals or the supreme court, the sum of \$25.00.

(h) The sum of \$15.00 as a service fee for each writ of garnishment, attachment, execution, or judgment debtor discovery subpoena issued.

(2) The sums paid as provided in this section shall be held to be in full for all clerk, entry, and judgment fees in an action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

(3) Except as otherwise provided in this section, the fees shall be paid over to the county treasurer as required by law.

(4) At the end of each month, the clerk shall transmit for each fee collected under subsection (1)(d) \$10.00 to the state treasurer for deposit in the fund created by section 6a of the office of child support act, 1971 PA 174, MCL 400.236a. The balance of the fee collected under subsection (1)(d)(i) shall be paid to the county treasurer and deposited by the county treasurer as provided under section 2530 to be used to fund services that are not title IV-D services. The balance of the fee collected under subsection (1)(d)(ii) shall be paid to the county treasurer and deposited by the county treasurer as provided under section 2530.

(5) The court shall order any of the fees prescribed in this section waived or suspended, in whole or in part, upon a showing by affidavit of indigency or inability to pay.

(6) If the person filing an action under subsection (1)(d) is a public officer acting in his or her official capacity, if the order is submitted with the initial filing as a consent order, or other good cause is shown, the court shall order the fee under subsection (1)(d) waived or suspended. If a fee is waived or suspended and the action is contested, the court may require that 1 or more of the parties to the action pay the fee under subsection (1)(d).

History: Add. 1963, Act 218, Eff. Sept. 6, 1963;—Am. 1964, Act 21, Eff. Aug. 28, 1964;—Am. 1966, Act 20, Eff. Jan. 1, 1967;—Am. 1967, Act 278, Eff. Nov. 2, 1967;—Am. 1970, Act 248, Eff. Jan. 1, 1971;—Am. 1977, Act 279, Eff. Mar. 30, 1978;—Am. 1982, Act 297, Eff. July 1, 1983;—Am. 1982, Act 511, Eff. Jan. 1, 1983;—Am. 1988, Act 310, Eff. Jan. 1, 1989;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1992, Act 292, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 189, Eff. Oct. 8, 1993;—Am. 1994, Act 403, Eff. Apr. 1, 1995;—Am. 1999, Act 268, Eff. July 1, 2000;—Am. 2001, Act 202, Eff. Apr. 1, 2002;—Am. 2002, Act 605, Eff. Jan. 1, 2003;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003;—Am. 2004, Act 205, Eff. Oct. 1, 2004.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.2538 Payments of support or maintenance collected by friend of the court or state disbursement unit; fee; notice; transition to centralized receipt and disbursement of support and fees; “state disbursement unit” or “SDU” defined.

Sec. 2538. (1) For services provided that are not reimbursable under the provisions of part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 660, and 663 to 669b, every person required to make payments of support or maintenance to be collected by the friend of the court or the state disbursement unit shall pay a fee of \$1.50 per month for every month or portion of a month that support or maintenance is required to be paid. The fee shall be paid monthly, quarterly, or semiannually as required by the friend of the court. The friend of the court shall provide notice of the fee required by this section to the person ordered to pay the support and that the fee shall be paid monthly or as otherwise determined by the friend of the court. The friend of the court or SDU shall transmit each fee collected under this section as follows:

(a) Twenty-five cents to the appropriate county treasurer for deposit into the general fund of the county.

(b) For fees assessed on or after October 1, 2003, 25 cents to the state treasurer for deposit in the fund created in subsection (3).

(c) One dollar to the state treasurer for deposit in the state court fund created in section 151a.

(2) The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

(3) An attorney general's operations fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of attorney general shall expend money from the fund, upon appropriation, for operational purposes.

(4) As used in this section, “state disbursement unit” or “SDU” means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

History: Add. 1993, Act 189, Imd. Eff. Oct. 8, 1993;—Am. 1999, Act 151, Imd. Eff. Nov. 3, 1999;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5837 Accrual of claim; alimony.

Sec. 5837. The claims for alimony payments accrue as each payment falls due.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6023 Property exempt from levy and sale under execution; lien excluded from exemption; homestead exemption; rents and profits.

Sec. 6023. (1) The following property of the debtor and the debtor's dependents shall be exempt from levy and sale under any execution:

(a) All family pictures, all arms and accouterments required by law to be kept by any person, all wearing apparel of every person or family, and provisions and fuel for comfortable subsistence of each householder and his or her family for 6 months.

(b) All household goods, furniture, utensils, books, and appliances, not exceeding in value \$1,000.00.

(c) A seat, pew, or slip occupied by the judgment debtor or the judgment debtor's family in any house or place of public worship, and all cemeteries, tombs, and rights of burial while in use as repositories of the dead of the judgment debtor's family or kept for burial of the judgment debtor.

(d) To each householder, 10 sheep, 2 cows, 5 swine, 100 hens, 5 roosters, and a sufficient quantity of hay and grain, growing or otherwise, for properly keeping the animals and poultry for 6 months.

(e) The tools, implements, materials, stock, apparatus, team, vehicle, motor vehicle, horses, harness, or other things to enable a person to carry on the profession, trade, occupation, or business in which the person is principally engaged, not exceeding in value \$1,000.00.

(f) Any money or other benefits paid, provided, or allowed to be paid, provided, or allowed, by any stock or mutual life or health or casualty insurance company, on account of the disability due to injury or sickness of any insured person, whether the debt or liability of such insured person or beneficiary was incurred before or after the accrual of benefits under the insurance policy or contract, except that the exemption does not apply to actions to recover for necessities contracted for after the accrual of the benefits.

(g) The shares held by any member, being a householder, of any association incorporated under the provisions of the savings and loan act of 1980, 1980 PA 307, MCL 491.102 to 491.1202, to the amount of \$1,000.00 in such shares, at par value, except that this exemption does not apply to any person who has a homestead exempted under the general laws of this state.

(h) A homestead of not exceeding 40 acres of land and the dwelling house and appurtenances on that homestead, and not included in any recorded plat, city, or village, or, instead, and at the option of the owner, a quantity of land not exceeding in amount 1 lot, being within a recorded town plat, city, or village, and the dwelling house and appurtenances on that land, owned and occupied by any resident of this state, not exceeding in value \$3,500.00. This exemption extends to any person owning and occupying any house on land not his or her own and which the person claims as a homestead. However, this exemption does not apply to any mortgage on the homestead, lawfully obtained, except that the mortgage is not valid without the signature of a married judgment debtor's spouse unless either of the following occurs:

(i) The mortgage is given to secure the payment of the purchase money or a portion of the purchase money.

(ii) The mortgage is recorded in the office of the register of deeds of the county in which the property is located, for a period of 25 years, and no notice of a claim of invalidity is filed in that office during the 25 years following the recording of the mortgage.

(i) An equity of redemption as described in section 6060.

(j) The homestead of a family, after the death of the owner of the homestead, from the payment of his or her debts in all cases during the minority of his or her children.

(k) An individual retirement account or individual retirement annuity as defined in section 408 or 408a of the internal revenue code of 1986 and the payments or distributions from such an account or annuity. This exemption applies to the operation of the federal bankruptcy code as permitted by section 522(b)(2) of title 11 of the United States Code, 11 U.S.C. 522. This exemption does not apply to any amounts contributed to an individual retirement account or individual retirement annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to an individual retirement account or individual retirement annuity to the extent that any of the following occur:

(i) The individual retirement account or individual retirement annuity is subject to an order of a court pursuant to a judgment of divorce or separate maintenance.

(ii) The individual retirement account or individual retirement annuity is subject to an order of a court concerning child support.

(iii) Contributions to the individual retirement account or premiums on the individual retirement annuity, including the earnings or benefits from those contributions or premiums, exceed, in the tax year made or paid, the deductible amount allowed under section 408 of the internal revenue code of 1986. This limitation on contributions does not apply to a rollover of a pension, profit-sharing, stock bonus plan or other plan that is qualified under section 401 of the internal revenue code of 1986, or an annuity contract under section 403(b) of the internal revenue code of 1986.

(l) The right or interest of a person in a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code of 1986, or an annuity contract under section 403(b) of the internal revenue code of 1986, which plan or annuity is subject to the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829. This exemption applies to the operation of the federal bankruptcy code, as permitted by section 522(b)(2) of title 11 of the United States Code, 11 U.S.C. 522. This

exemption does not apply to any amount contributed to a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to the right or interest of a person in a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity to the extent that the right or interest in the plan or annuity is subject to any of the following:

(i) An order of a court pursuant to a judgment of divorce or separate maintenance.

(ii) An order of a court concerning child support.

(2) The exemptions provided in this section shall not extend to any lien thereon excluded from exemption by law.

(3) If the owner of a homestead dies, leaving a surviving spouse but no children, the homestead shall be exempt, and the rents and profits of the homestead shall accrue to the benefit of the surviving spouse before his or her remarriage, unless the surviving spouse is the owner of a homestead in his or her own right.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963;—Am. 1964, Act 73, Imd. Eff. May 12, 1964;—Am. 1984, Act 83, Imd. Eff. Apr. 19, 1984;—Am. 1989, Act 5, Imd. Eff. Apr. 19, 1989;—Am. 1998, Act 61, Imd. Eff. Apr. 20, 1998.

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)

Act 386 of 1998

700.5210 Order for termination of guardianship of minor.

Sec. 5210. Upon receipt of a copy of a judgment or an order of disposition in a child custody action regarding a minor that is sent to the court as provided in section 6b of the child custody act of 1970, 1970 PA 91, MCL 722.26b, the court shall terminate the guardianship or limited guardianship for that minor.

History: 1998, Act 386, Eff. Apr. 1, 2000.

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

710.22 Definitions.

Sec. 22. As used in this chapter:

(a) "Adoptee" means the individual who is to be adopted, regardless of whether the individual is a child or an adult.

(b) "Adoption attorney" means an attorney acting as counsel in an adoption proceeding or case.

(c) "Adult former sibling" means an individual who is 18 years of age or older and is related to an adult adoptee either biologically or through adoption by at least 1 common parent, regardless of whether the adult former sibling ever lived in the same household as the adult adoptee.

(d) "Agency placement" means a placement in which a child placing agency, the department, or a court selects the adoptive parent for the child and transfers physical custody of the child to the prospective adoptive parent.

(e) "Applicant" means an individual or individuals who desire to adopt a child and who have submitted an adoption application to a child placing agency.

(f) "Attending practitioner" means a licensed physician or a registered professional nurse certified as a nurse midwife by the Michigan board of nursing.

(g) "Best interests of the adoptee" or "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court to be applied to give the adoptee permanence at the earliest possible date:

(i) The love, affection, and other emotional ties existing between the adopting individual or individuals and the adoptee or, in the case of a hearing under section 39 of this chapter, the putative father and the adoptee.

(ii) The capacity and disposition of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, the putative father to give the adoptee love, affection, and guidance, and to educate and create a milieu that fosters the religion, racial identity, and culture of the adoptee.

(iii) The capacity and disposition of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, the putative father, to provide the adoptee with food, clothing, education, permanence, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(iv) The length of time the adoptee has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(v) The permanence as a family unit of the proposed adoptive home, or, in the case of a hearing under section 39 of this chapter, the home of the putative father.

(vi) The moral fitness of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, of the putative father.

(vii) The mental and physical health of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, of the putative father, and of the adoptee.

(viii) The home, school, and community record of the adoptee.

(ix) The reasonable preference of the adoptee, if the adoptee is 14 years of age or less and if the court considers the adoptee to be of sufficient age to express a preference.

(x) The ability and willingness of the adopting individual or individuals to adopt the adoptee's siblings.

(xi) Any other factor considered by the court to be relevant to a particular adoption proceeding, or to a putative father's request for child custody.

(h) "Born out of wedlock" means a child conceived and born to a woman who was not married from the conception to the date of birth of the child, or a child whom the court has determined to be a child born during a marriage but not the issue of that marriage.

(i) "Central adoption registry" means the registry established by the department under section 27b of this chapter to control the release of identifying adoption information.

(j) "Child" means an individual less than 18 years of age.

(k) "Child placing agency" means a private organization licensed under 1973 PA 116, MCL 722.111 to 722.128, to place children for adoption.

(l) "Consent" means a document in which all parental rights over a specific child are voluntarily relinquished to the court for placement with a specific adoptive parent.

(m) "Court" means the family division of circuit court of this state, or if the context requires, the court having jurisdiction over adoption in another state or country.

(n) "Department" means the family independence agency.

(o) "Direct placement" means a placement in which a parent or guardian selects an adoptive parent for a child, other than a stepparent or an individual related to the child within the fifth degree by marriage, blood, or adoption, and transfers physical custody of the child to the prospective adoptive parent.

(p) "Formal placement" means a placement that is approved by the court under section 51 of this chapter.

(q) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(r) "Petitioner", except as used in section 68b of this chapter, means the individual or individuals who file an adoption petition with the court.

(s) "Placement" or "to place" means selection of an adoptive parent for a child and transfer of physical custody of the child to a prospective adoptive parent according to this chapter.

(t) "Relative" means an individual who is related to the child within the fifth degree by marriage, blood, or adoption.

(u) "Release" means a document in which all parental rights over a specific child are voluntarily relinquished to the department or to a child placing agency.

(v) "Rescission petition" means a petition filed by an adult adoptee and his or her parent whose rights have been terminated to rescind the adoption in which a stepparent acquired parental rights and to restore parental rights of that parent according to section 66 of this chapter.

(w) "Suitable to be a parent of an adoptee" means a conclusion that there is no specific concern with respect to an individual that would suggest that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the physical or psychological well-being of the child.

(x) "Temporary placement" means a placement that occurs before court approval under section 51 of this chapter and that meets the requirements of section 23d of this chapter.

(y) "Within the fifth degree by marriage, blood, or adoption" means any of the following relationships: parent, step-parent, grandparent, step-grandparent, brother, step-brother, sister, step-sister, uncle, step-uncle, aunt, step-aunt, first cousin, step-first cousin, great aunt, step-great aunt, great uncle, step-great uncle, great grandparent, step-great grandparent, first cousin once removed, step-first cousin once removed, great great grandparent, step-great great grandparent, great great uncle, step-great great uncle, great great aunt, step-great great aunt, great great great grandparent, or step-great great great grandparent.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1990, Act 175, Imd. Eff. July 2, 1990;—Am. 1992, Act 247, Imd. Eff. Nov. 19, 1992;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

710.60 Adoptee to be known and called by new name; status and liability of persons adopting adoptee; rights and duties of adopted person; adopted person as heir at law; order for grandparenting time.

Sec. 60. (1) After the entry of an order of adoption, if the adoptee's name is changed, the adoptee shall be known and called by the new name. The person or persons adopting the adoptee then become the parent or parents of the adoptee under the law as though the adopted person had been born to the adopting parents and are liable for all the duties and entitled to all the rights of parents.

(2) After entry of the order of adoption, there is no distinction between the rights and duties of natural progeny and adopted persons, and the adopted person becomes an heir at law of the adopting parent or parents and an heir at law of the lineal and collateral kindred of the adopting parent or parents. After entry of the order of adoption, except as provided in section 2114(2) of the estates and protected individuals code, 1998 PA 386, MCL 700.2114, an adopted child is no longer an heir at law of a parent whose rights have been terminated under this chapter or chapter XIA or the lineal or collateral kindred of that parent, nor is an adopted adult an heir at law of a person who was his or her parent at the time the order of adoption was entered or the lineal or collateral kindred of that person, except that a right, title, or interest that has vested before entry of the final order of adoption is not divested by that order.

(3) This section does not prohibit the filing of an action or entry of an order for grandparenting time as provided in section 7b of the child custody act of 1970, 1970 PA 91, MCL 722.27b.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1982, Act 341, Imd. Eff. Dec. 17, 1982;—Am. 1996, Act 16, Eff. June 1, 1996;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2006, Act 352, Imd. Eff. Sept. 18, 2006.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712.2 Newborn surrendered to emergency service provider; court jurisdiction; effect of other provisions of law; immunity from civil action.

Sec. 2. (1) The court has jurisdiction over a newborn who is surrendered to an emergency service provider as provided in section 3 of this chapter. The court may appoint a lawyer-guardian ad litem to represent a newborn in proceedings under this chapter.

(2) Except as provided in section 5 of this chapter, the reporting requirement of section 3 of the child protection law, 1975 PA 238, MCL 722.623, does not apply regarding a child surrendered to an emergency service provider as provided in section 3 of this chapter.

(3) Unless this chapter specifically provides otherwise, a provision in another chapter of this act does not apply to a proceeding under this chapter. Unless this chapter specifically provides otherwise, the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.30, does not apply to a proceeding under this chapter.

(4) A hospital and a child placing agency, and their agents and employees, are immune in a civil action for damages for an act or omission in accepting or transferring a newborn under this chapter, except for an act or omission constituting gross negligence or willful or wanton misconduct. To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an employee or contractor of a fire department or police station has the same immunity that this subsection provides to a hospital's or child placing agency's agent or employee.

History: Add. 2000 Act 232, Eff. Jan. 1, 2001.

Compiler's note: Enacting section 1 of Act 232 of 2000 provides:

"Enacting section 1. Section 19b of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."

Popular name: Baby Abandonment

Popular name: Baby Drop Off

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712A.13a Definitions; petition; release of juvenile; order removing abusive person from home; placement of child; duty of court to inform parties; criminal record check and central registry clearance; family-like setting; parenting time; review and modification of orders and plans; release of information; information included with order; "abuse" defined.

Sec. 13a. (1) As used in this section and sections 2, 6b, 13b, 17c, 17d, 18f, 19, 19a, 19b, and 19c of this chapter:

(a) "Agency" means a public or private organization, institution, or facility that is performing the functions under part D of title IV of the social security act, 42 USC 651 to 655, 656 to 657, 658a to 660, and 663 to 669b, or that is responsible under court order or contractual arrangement for a juvenile's care and supervision.

(b) "Agency case file" means the current file from the agency providing direct services to the child, that can include the child protective services file if the child has not been removed from the home or the family independence agency or contract agency foster care file as defined under 1973 PA 116, MCL 722.111 to 722.128.

(c) "Attorney" means, if appointed to represent a child in a proceeding under section 2(b) or (c) of this chapter, an attorney serving as the child's legal advocate in a traditional attorney-client relationship with the child, as governed by the Michigan rules of professional conduct. An attorney defined under this subdivision owes the same duties of undivided loyalty, confidentiality, and zealous representation of the child's expressed wishes as the attorney would to an adult client. For the purpose of a notice required under these sections, attorney includes a child's lawyer-guardian ad litem.

(d) "Case service plan" means the plan developed by an agency and prepared under section 18f of this chapter that includes services to be provided by and responsibilities and obligations of the agency and activities, responsibilities, and obligations of the parent. The case service plan may be referred to using different names than case service plan including, but not limited to, a parent/agency agreement or a parent/agency treatment plan and service agreement.

(e) "Foster care" means care provided to a juvenile in a foster family home, foster family group home, or child caring institution licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, or care provided to a juvenile in a relative's home under a court order.

(f) "Guardian ad litem" means an individual whom the court appoints to assist the court in determining the child's best interests. A guardian ad litem does not need to be an attorney.

(g) "Lawyer-guardian ad litem" means an attorney appointed under section 17c of this chapter. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 17d of this chapter. The provisions of section 17d of this chapter also apply to a lawyer-guardian ad litem appointed under each of the following:

(i) Section 5213 or 5219 of the estates and protected individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

(ii) Section 4 of the child custody act of 1970, 1970 PA 91, MCL 722.24.

(iii) Section 10 of the child protection law, 1975 PA 238, MCL 722.630.

(h) "Nonparent adult" means a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child over whom the court takes jurisdiction under this chapter:

(i) Has substantial and regular contact with the child.

(ii) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.

(iii) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

(i) "Permanent foster family agreement" means an agreement for a child 14 years old or older to remain with a particular foster family until the child is 18 years old under standards and requirements established by the family independence agency, which agreement is among all of the following:

(i) The child.

(ii) If the child is a temporary ward, the child's family.

(iii) The foster family.

(iv) The child placing agency responsible for the child's care in foster care.

(j) "Relative" means an individual who is at least 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the above, even after the marriage has ended by death or divorce. A child may be placed with the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child. A placement with the parent of a putative father under this subdivision is not to be construed as a finding of paternity or to confer legal standing on the putative father.

(2) If a juvenile is alleged to be within the provisions of section 2(b) of this chapter, the court may authorize a petition to be filed at the conclusion of the preliminary hearing or inquiry. The court may

authorize the petition upon a showing of probable cause that 1 or more of the allegations in the petition are true and fall within the provisions of section 2(b) of this chapter. If a petition is before the court because the family independence agency is required to submit the petition under section 17 of the child protection law, 1975 PA 238, MCL 722.637, the court shall hold a hearing on the petition within 24 hours or on the next business day after the petition is submitted, at which hearing the court shall consider at least the matters governed by subsections (4) and (5).

(3) Except as provided in subsection (5), if a petition under subsection (2) is authorized, the court may release the juvenile in the custody of either of the juvenile's parents or the juvenile's guardian or custodian under reasonable terms and conditions necessary for either the juvenile's physical health or mental well-being.

(4) The court may order a parent, guardian, custodian, nonparent adult, or other person residing in a child's home to leave the home and, except as the court orders, not to subsequently return to the home if all of the following take place:

(a) A petition alleging abuse of the child by the parent, guardian, custodian, nonparent adult, or other person is authorized under subsection (2).

(b) The court after a hearing finds probable cause to believe the parent, guardian, custodian, nonparent adult, or other person committed the abuse.

(c) The court finds on the record that the presence in the home of the person alleged to have committed the abuse presents a substantial risk of harm to the child's life, physical health, or mental well-being.

(5) If a petition alleges abuse by a person described in subsection (4), regardless of whether the court orders the alleged abuser to leave the child's home under subsection (4), the court shall not leave the child in or return the child to the child's home or place the child with a person not licensed under 1973 PA 116, MCL 722.111 to 722.128, unless the court finds that the conditions of custody at the placement and with the individual with whom the child is placed are adequate to safeguard the child from the risk of harm to the child's life, physical health, or mental well-being.

(6) In determining whether to enter an order under subsection (4), the court may consider whether the parent who is to remain in the juvenile's home is married to the person to be removed or has a legal right to retain possession of the home.

(7) An order entered under subsection (4) may also contain 1 or more of the following terms or conditions:

(a) The court may require the alleged abusive parent to pay appropriate support to maintain a suitable home environment for the juvenile during the duration of the order.

(b) The court may order the alleged abusive person, according to terms the court may set, to surrender to a local law enforcement agency any firearms or other potentially dangerous weapons the alleged abusive person owns, possesses, or uses.

(c) The court may include any reasonable term or condition necessary for the juvenile's physical or mental well-being or necessary to protect the juvenile.

(8) If the court orders placement of the juvenile outside the juvenile's home, the court shall inform the parties of the following:

(a) That the agency has the responsibility to prepare an initial services plan within 30 days of the juvenile's placement.

(b) The general elements of an initial services plan as required by the rules promulgated under 1973 PA 116, MCL 722.111 to 722.128.

(c) That participation in the initial services plan is voluntary without a court order.

(9) Before or within 7 days after a child is placed in a relative's home, the family independence agency shall perform a criminal record check and central registry clearance. If the child is placed in the home of a relative, the court shall order a home study to be performed and a copy of the home study to be submitted to the court not more than 30 days after the placement.

(10) In determining placement of a juvenile pending trial, the court shall order the juvenile placed in the most family-like setting available consistent with the juvenile's needs.

(11) If a juvenile is removed from his or her home, the court shall permit the juvenile's parent to have frequent parenting time with the juvenile. If parenting time, even if supervised, may be harmful to the juvenile, the court shall order the child to have a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time. The court may suspend parenting time while the psychological evaluation or counseling is conducted.

(12) Upon the motion of any party, the court shall review custody and placement orders and initial services plans pending trial and may modify those orders and plans as the court considers under this section are in the juvenile's best interests.

(13) The court shall include in an order placing a child in foster care an order directing the release of

information concerning the child in accordance with this subsection. If a child is placed in foster care, within 10 days after receipt of a written request, the agency shall provide the person who is providing the foster care with copies of all initial, updated, and revised case service plans and court orders relating to the child and all of the child's medical, mental health, and education reports, including reports compiled before the child was placed with that person.

(14) In an order placing a child in foster care, the court shall include both of the following:

(a) An order that the child's parent, guardian, or custodian provide the supervising agency with the name and address of each of the child's medical providers.

(b) An order that each of the child's medical providers release the child's medical records. The order may specify providers by profession or type of institution.

(15) As used in this section, "abuse" means 1 or more of the following:

(a) Harm or threatened harm by a person to a juvenile's health or welfare that occurs through nonaccidental physical or mental injury.

(b) Engaging in sexual contact or sexual penetration as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, with a juvenile.

(c) Sexual exploitation of a juvenile, which includes, but is not limited to, allowing, permitting, or encouraging a juvenile to engage in prostitution or allowing, permitting, encouraging, or engaging in photographing, filming, or depicting a juvenile engaged in a listed sexual act as defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(d) Maltreatment of a juvenile.

History: Add. 1988, Act 224, Eff. Apr. 1, 1989;—Am. 1993, Act 114, Imd. Eff. July 20, 1993;—Am. 1996, Act 16, Eff. June 1, 1996;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 1997, Act 163, Eff. Mar. 31, 1998;—Am. 1998, Act 480, Eff. Mar. 1, 1999;—Am. 1998, Act 530, Eff. July 1, 1999;—Am. 2000, Act 55, Eff. Apr. 1, 2000;—Am. 2004, Act 475, Imd. Eff. Dec. 28, 2004.

Popular name: Probate Code

Popular name: Juvenile Code

PROBATE CODE OF 1939 (EXCERPT) **Act 288 of 1939**

712A.17c Advising child or respondent of right to attorney; appointment of attorney; waiver; appointment of lawyer-guardian ad litem; costs; service until discharged by court; assistance to court.

Sec. 17c. (1) In a proceeding under section 2(a) or (d) of this chapter or a proceeding regarding a supplemental petition alleging a violation of a personal protection order under section 2(h) of this chapter, the court shall advise the child that he or she has a right to an attorney at each stage of the proceeding.

(2) In a proceeding under section 2(a) or (d) of this chapter, the court shall appoint an attorney to represent the child if 1 or more of the following apply:

(a) The child's parent refuses or fails to appear and participate in the proceedings.

(b) The child's parent is the complainant or victim.

(c) The child and those responsible for his or her support are financially unable to employ an attorney and the child does not waive his or her right to an attorney.

(d) Those responsible for the child's support refuse or neglect to employ an attorney for the child and the child does not waive his or her right to an attorney.

(e) The court determines that the best interests of the child or the public require appointment.

(3) Except as otherwise provided in this subsection, in a proceeding under section 2(a) or (d) of this chapter, the child may waive his or her right to an attorney. The waiver by a child shall be made in open court, on the record, and shall not be made unless the court finds on the record that the waiver was voluntarily and understandingly made. The child may not waive his or her right to an attorney if the child's parent or guardian ad litem objects or if the appointment is made under subsection (2)(e).

(4) In a proceeding under section 2(b) or (c) of this chapter, the court shall advise the respondent at the respondent's first court appearance of all of the following:

(a) The right to an attorney at each stage of the proceeding.

(b) The right to a court-appointed attorney if the respondent is financially unable to employ an attorney.

(c) If the respondent is not represented by an attorney, the right to request and receive a court-appointed attorney at a later proceeding.

(5) If it appears to the court in a proceeding under section 2(b) or (c) of this chapter that the respondent wants an attorney and is financially unable to retain an attorney, the court shall appoint an attorney to represent the respondent.

(6) Except as otherwise provided in this subsection, in a proceeding under section 2(b) or (c) of this chapter, the respondent may waive his or her right to an attorney. A respondent who is a minor may not waive his or her right to an attorney if the respondent's parent or guardian ad litem objects.

(7) In a proceeding under section 2(b) or (c) of this chapter, the court shall appoint a lawyer-guardian ad litem to represent the child. The child shall not waive the assistance of the lawyer-guardian ad litem. In addition to any other powers and duties, a lawyer-guardian ad litem's powers and duties include those prescribed in section 17d.

(8) If an attorney or lawyer-guardian ad litem is appointed for a party under this act, after a determination of ability to pay the court may enter an order assessing attorney costs against the party or the person responsible for that party's support, or against the money allocated from marriage license fees for family counseling services under section 3 of 1887 PA 128, MCL 551.103. An order assessing attorney costs may be enforced through contempt proceedings.

(9) An attorney or lawyer-guardian ad litem appointed by the court under this section shall serve until discharged by the court. If the child's case was petitioned under section 2(b) of this chapter, the court shall not discharge the lawyer-guardian ad litem for the child as long as the child is subject to the jurisdiction, control, or supervision of the court, or of the Michigan children's institute or other agency, unless the court discharges the lawyer-guardian ad litem for good cause shown on the record. If the child remains subject to the jurisdiction, control, or supervision of the court, or the Michigan children's institute or other agency, the court shall immediately appoint another lawyer-guardian ad litem to represent the child.

(10) To assist the court in determining a child's best interests, the court may appoint a guardian ad litem for a child involved in a proceeding under this chapter.

History: Add. 1988, Act 92, Eff. June 1, 1988;—Am. 1994, Act 264, Eff. Jan. 1, 1995;—Am. 1997, Act 169, Eff. Mar. 31, 1998;—Am. 1998, Act 474, Eff. Mar. 1, 1999;—Am. 1998, Act 480, Eff. Mar. 1, 1999.

Popular name: Probate Code

Popular name: Juvenile Code

STATUS OF MINORS AND CHILD SUPPORT (EXCERPT)

Act 293 of 1968

722.3 Obligation of parents; exceptions; enforcement of duty to support; child support formula as guideline; enforcement of judgment.

Sec. 3. (1) The parents are jointly and severally obligated to support a minor as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, unless a court of competent jurisdiction modifies or terminates the obligation or the minor is emancipated by operation of law, except as otherwise ordered by a court of competent jurisdiction. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, a court of competent jurisdiction may order support as provided in this section for a child after he or she reaches 18 years of age.

(2) The duty of support may be enforced by the minor or the child who has reached 18 years of age, his or her guardian, any relative within the third degree, an authorized government agency, or if the minor or the child who has reached 18 years of age is being supported in whole or in part by public assistance under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, by the director of the family independence agency or his or her designated representative, or by the director of the county family independence agency or his or her designated representative of the county where an action under this act is brought. An action for enforcement shall be brought in the circuit court in the county where the minor or the child who has reached 18 years of age resides. If a designated official of either the state or a county family independence agency brings an action under this act on behalf of the minor or the child who has reached 18 years of age, then the prosecuting attorney or an attorney employed by the county under section 1 of 1941 PA 15, MCL 49.71, shall represent the official in initiating and conducting the proceedings under this act. The prosecuting attorney shall utilize the child support formula developed under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519, as a guideline in petitioning for child support.

(3) A judgment entered under this section providing for support is governed by and is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

History: 1968, Act 293, Eff. Nov. 15, 1968;—Am. 1971, Act 173, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 213, Eff. Mar. 1, 1986;—Am. 1989, Act 278, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 238, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 295, Imd. Eff. Dec. 14,

1990;—Am. 1996, Act 17, Eff. June 1, 1996;—Am. 2001, Act 110, Eff. Sept. 30, 2001.

Popular name: Emancipation of Minors Act

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.21 Child custody act; short title.

Sec. 1. This act shall be known and may be cited as the “child custody act of 1970”.

History: 1970, Act 91, Eff. Apr. 1, 1971.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.22 Definitions.

Sec. 2. As used in this act:

(a) "Active military duty" means when a reserve unit member or national guard unit member is called into active military duty.

(b) "Agency" means a legally authorized public or private organization, or governmental unit or official, whether of this state or of another state or country, concerned in the welfare of minor children, including a licensed child placement agency.

(c) "Attorney" means, if appointed to represent a child under this act, an attorney serving as the child's legal advocate in a traditional attorney-client relationship with the child, as governed by the Michigan rules of professional conduct. An attorney defined under this subdivision owes the same duties of undivided loyalty, confidentiality, and zealous representation of the child's expressed wishes as the attorney would to an adult client.

(d) "Child" means minor child and children. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, for purposes of providing support, child includes a child and children who have reached 18 years of age.

(e) "Grandparent" means a natural or adoptive parent of a child's natural or adoptive parent.

(f) "Guardian ad litem" means an individual whom the court appoints to assist the court in determining the child's best interests. A guardian ad litem does not need to be an attorney.

(g) "Lawyer-guardian ad litem" means an attorney appointed under section 4. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 4.

(h) "Parent" means the natural or adoptive parent of a child.

(i) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(j) "Third person" means an individual other than a parent.

History: 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1990, Act 245, Imd. Eff. Oct. 10, 1990;—Am. 1998, Act 482, Eff. Mar. 1, 1999;—Am. 1999, Act 156, Imd. Eff. Nov. 3, 1999;—Am. 2002, Act 9, Imd. Eff. Feb. 14, 2002;—Am. 2004, Act 542, Imd. Eff. Jan. 3, 2005;—Am. 2005, Act 327, Imd. Eff. Dec. 28, 2005.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.23 “Best interests of the child” defined.

Sec. 3. As used in this act, “best interests of the child” means the sum total of the following factors to be considered, evaluated, and determined by the court:

(a) The love, affection, and other emotional ties existing between the parties involved and the child.

(b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any.

(c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(e) The permanence, as a family unit, of the existing or proposed custodial home or homes.

(f) The moral fitness of the parties involved.

(g) The mental and physical health of the parties involved.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.

- (j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.
- (k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.
- (l) Any other factor considered by the court to be relevant to a particular child custody dispute.

History: 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1980, Act 434, Imd. Eff. Jan. 14, 1981;—Am. 1993, Act 259, Imd. Eff. Nov. 29, 1993.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.24 Child custody disputes; powers of court; appointment of lawyer-guardian ad litem.

Sec. 4. (1) In all actions involving dispute of a minor child's custody, the court shall declare the child's inherent rights and establish the rights and duties as to the child's custody, support, and parenting time in accordance with this act.

(2) If, at any time in the proceeding, the court determines that the child's best interests are inadequately represented, the court may appoint a lawyer-guardian ad litem to represent the child. A lawyer-guardian ad litem represents the child and has powers and duties in relation to that representation as set forth in section 17d of chapter XIIA of 1939 PA 288, MCL 712A.17d. All provisions of section 17d of chapter XIIA of 1939 PA 288, MCL 712A.17d, apply to a lawyer-guardian ad litem appointed under this act.

(3) In a proceeding in which a lawyer-guardian ad litem represents a child, he or she may file a written report and recommendation. The court may read the report and recommendation. The court shall not, however, admit the report and recommendation into evidence unless all parties stipulate the admission. The parties may make use of the report and recommendation for purposes of a settlement conference.

(4) After a determination of ability to pay, the court may assess all or part of the costs and reasonable fees of the lawyer-guardian ad litem against 1 or more of the parties involved in the proceedings or against the money allocated from marriage license fees for family counseling services under section 3 of 1887 PA 128, MCL 551.103. A lawyer-guardian ad litem appointed under this section shall not be paid a fee unless the court first receives and approves the fee.

History: 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1996, Act 19, Eff. June 1, 1996;—Am. 1998, Act 482, Eff. Mar. 1, 1999.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.24a Repealed. 2001, Act 108, Eff. Sept. 30, 2001.

Compiler's note: The repealed section pertained to support of child after child reaches 18 years of age.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.25 Child custody disputes; controlling interests, presumption; award of custody to parent convicted of criminal sexual conduct.

Sec. 5. (1) If a child custody dispute is between the parents, between agencies, or between third persons, the best interests of the child control. If the child custody dispute is between the parent or parents and an agency or a third person, the court shall presume that the best interests of the child are served by awarding custody to the parent or parents, unless the contrary is established by clear and convincing evidence.

(2) Notwithstanding other provisions of this act, if a child custody dispute involves a child who is conceived as the result of acts for which 1 of the child's biological parents is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.520a to 750.520e and 750.520g of the Michigan Compiled Laws, the court shall not award custody to the convicted biological parent. This subsection does not apply to a conviction under section 520d(1)(a) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.520d of the Michigan Compiled Laws. This subsection does not apply if, after the date of the conviction, the biological parents cohabit and establish a mutual custodial environment for the child.

(3) Notwithstanding other provisions of this act, if an individual is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of Act No. 328 of the Public Acts of 1931 and the victim is the individual's child, the court shall not award custody of that child or a sibling of that child to that individual, unless both the child's other parent and, if the court considers the child or sibling to be of sufficient age to express his or her desires, the child or sibling consent to the custody.

History: 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1993, Act 259, Imd. Eff. Nov. 29, 1993.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.26 Liberal construction and application of act; purpose; provisions applicable to child custody disputes and actions; precedence of other actions; submission of action; habeas corpus or warrant.

Sec. 6. (1) This act is equitable in nature and shall be liberally construed and applied to establish promptly the rights of the child and the rights and duties of the parties involved. This act applies to all circuit court child custody disputes and actions, whether original or incidental to other actions. Those disputes and actions shall have precedence for hearing and assignment for trial over other civil actions.

(2) Except as otherwise provided in section 6b or 6e, if the circuit court of this state does not have prior continuing jurisdiction over a child, the action shall be submitted to the circuit court of the county where the child resides or may be found by complaint or complaint and motion for order to show cause. An application for a writ of habeas corpus or for a warrant in its place to obtain custody of a child shall not be granted unless it appears that this act is inadequate and ineffective to resolve the particular child custody dispute.

History: 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1990, Act 315, Imd. Eff. Dec. 20, 1990;—Am. 1993, Act 259, Imd. Eff. Nov. 29, 1993.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.26a Joint custody.

Sec. 6a. (1) In custody disputes between parents, the parents shall be advised of joint custody. At the request of either parent, the court shall consider an award of joint custody, and shall state on the record the reasons for granting or denying a request. In other cases joint custody may be considered by the court. The court shall determine whether joint custody is in the best interest of the child by considering the following factors:

(a) The factors enumerated in section 3.

(b) Whether the parents will be able to cooperate and generally agree concerning important decisions affecting the welfare of the child.

(2) If the parents agree on joint custody, the court shall award joint custody unless the court determines on the record, based upon clear and convincing evidence, that joint custody is not in the best interests of the child.

(3) If the court awards joint custody, the court may include in its award a statement regarding when the child shall reside with each parent, or may provide that physical custody be shared by the parents in a manner to assure the child continuing contact with both parents.

(4) During the time a child resides with a parent, that parent shall decide all routine matters concerning the child.

(5) If there is a dispute regarding residency, the court shall state the basis for a residency award on the record or in writing.

(6) Joint custody shall not eliminate the responsibility for child support. Each parent shall be responsible for child support based on the needs of the child and the actual resources of each parent. If a parent would otherwise be unable to maintain adequate housing for the child and the other parent has sufficient resources, the court may order modified support payments for a portion of housing expenses even during a period when the child is not residing in the home of the parent receiving support. An order of joint custody, in and of itself, shall not constitute grounds for modifying a support order.

(7) As used in this section, "joint custody" means an order of the court in which 1 or both of the following is specified:

(a) That the child shall reside alternately for specific periods with each of the parents.

(b) That the parents shall share decision-making authority as to the important decisions affecting the welfare of the child.

History: Add. 1980, Act 434, Imd. Eff. Jan. 14, 1981.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.26b Standing of guardian or limited guardian of child to bring action for custody of child; filing of action; stay of proceedings; continuation of order in force; copy of judgment or order of disposition; assignment of judge.

Sec. 6b. (1) Except as otherwise provided in subsection (2), a guardian or limited guardian of a child has standing to bring an action for custody of the child as provided in this act.

(2) A limited guardian of a child does not have standing to bring an action for custody of the child if the parent or parents of the child have substantially complied with a limited guardianship placement plan

regarding the child entered into as required by section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, or section 424a of former 1978 PA 642.

(3) If the circuit court does not have prior continuing jurisdiction over the child, a child custody action brought by a guardian or limited guardian of the child shall be filed in the circuit court in the county in which the probate court appointed the guardian.

(4) Upon the filing of a child custody action brought by a child's guardian or limited guardian, guardianship proceedings concerning that child in the probate court are stayed until disposition of the child custody action. A probate court order concerning the guardianship of the child continues in force until superseded by a circuit court order. If the circuit court awards custody of the child, it shall send a copy of the judgment or order of disposition to the probate court in the county that appointed the child's guardian or limited guardian.

(5) If a child's guardian or limited guardian brings a child custody action, the circuit court shall request the supreme court in accordance with section 225 of the revised judicature act of 1961, 1961 PA 236, MCL 600.225, to assign the probate court judge who appointed that guardian or limited guardian to serve as the circuit court judge and hear the child custody action.

History: Add. 1990, Act 315, Imd. Eff. Dec. 20, 1990;—Am. 1993, Act 259, Imd. Eff. Nov. 29, 1993;—Am. 2000, Act 60, Eff. Apr. 1, 2000.

CHILD CUSTODY ACT OF 1970 (EXCERPT)

Act 91 of 1970

722.26c Custody action by third person; conditions.

Sec. 6c. (1) A third person may bring an action for custody of a child if the court finds either of the following:

(a) Both of the following:

(i) The child was placed for adoption with the third person under the adoption laws of this or another state, and the placement order is still in effect at the time the action is filed.

(ii) After the placement, the child has resided with the third person for a minimum of 6 months.

(b) All of the following:

(i) The child's biological parents have never been married to one another.

(ii) The child's parent who has custody of the child dies or is missing and the other parent has not been granted legal custody under court order.

(iii) The third person is related to the child within the fifth degree by marriage, blood, or adoption.

(2) A third person shall include with an action filed under this section both of the following:

(a) An affidavit setting forth facts relative to the existence of the prerequisites required by subsection (1)(a) or (b).

(b) Notice that a defense or objection to a third person's right to bring an action for custody may be raised as an affirmative defense or by a motion for summary disposition based on lack of standing as provided in the Michigan court rules.

History: Add. 1993, Act 259, Imd. Eff. Nov. 29, 1993.

Compiler's note: Section 2 of Act No. 259 of the Public Acts of 1993 provided:

“Sections 6c to 6e as added by this amendatory act are remedial in nature and apply retroactively.”

CHILD CUSTODY ACT OF 1970 (EXCERPT)

Act 91 of 1970

722.26d Custody action by third person; jurisdiction.

Sec. 6d. A third person filing an action under section 6c shall proceed as follows:

(a) If the circuit court has continuing jurisdiction over the child, the action shall be filed in the circuit court that has continuing jurisdiction over the child.

(b) If the circuit court does not have continuing jurisdiction over the child, the action shall be filed in the circuit court in the county where the child has resided for the 6 months immediately preceding the filing of the action or, if the child has not resided in any county for the 6 months immediately preceding the filing of the action, the action shall be filed in the circuit court in the county having the most significant connection with the child.

History: Add. 1993, Act 259, Imd. Eff. Nov. 29, 1993.

Compiler's note: Section 2 of Act No. 259 of the Public Acts of 1993 provided:

“Sections 6c to 6e as added by this amendatory act are remedial in nature and apply retroactively.”

CHILD CUSTODY ACT OF 1970 (EXCERPT)

Act 91 of 1970

722.26e Custody action by third person; notice; powers of court.

Sec. 6e. (1) A third person filing an action under section 6c shall send notice of the action to each party who has legal custody of the child and to each parent whose parental rights have not been terminated.

(2) In addition to other powers of the court, in an action under section 6c, the court may do any of the following:

(a) Appoint an attorney for a parent.

(b) Order that a necessary and reasonable amount of money be paid to the court for reimbursement of a party's attorney. A party may request an order under this subdivision. The moving party shall allege facts showing that the party is otherwise unable to bear the expense of the action. The court shall require the disclosure of attorney fees or other expenses paid.

(c) The court may award costs and fees as provided in section 2591 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2591 of the Michigan Compiled Laws.

History: Add. 1993, Act 259, Imd. Eff. Nov. 29, 1993.

Compiler's note: Section 2 of Act No. 259 of the Public Acts of 1993 provided:

"Sections 6c to 6e as added by this amendatory act are remedial in nature and apply retroactively."

CHILD CUSTODY ACT OF 1970 (EXCERPT)

Act 91 of 1970

722.27 Child custody disputes; powers of court; support order; enforcement of judgment or order.

Sec. 7. (1) If a child custody dispute has been submitted to the circuit court as an original action under this act or has arisen incidentally from another action in the circuit court or an order or judgment of the circuit court, for the best interests of the child the court may do 1 or more of the following:

(a) Award the custody of the child to 1 or more of the parties involved or to others and provide for payment of support for the child, until the child reaches 18 years of age. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support as provided in this section for a child after he or she reaches 18 years of age. The court may require that support payments shall be made through the friend of the court, court clerk, or state disbursement unit.

(b) Provide for reasonable parenting time of the child by the parties involved, by the maternal or paternal grandparents, or by others, by general or specific terms and conditions. Parenting time of the child by the parents is governed by section 7a.

(c) Modify or amend its previous judgments or orders for proper cause shown or because of change of circumstances until the child reaches 18 years of age and, subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, until the child reaches 19 years and 6 months of age. The court shall not modify or amend its previous judgments or orders or issue a new order so as to change the established custodial environment of a child unless there is presented clear and convincing evidence that it is in the best interest of the child. The custodial environment of a child is established if over an appreciable time the child naturally looks to the custodian in that environment for guidance, discipline, the necessities of life, and parental comfort. The age of the child, the physical environment, and the inclination of the custodian and the child as to permanency of the relationship shall also be considered. If a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child's placement that existed on the date the parent was called to active military duty, except the court may enter a temporary custody order if there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the custody order in effect immediately preceding that period of active military duty. If a motion for change of custody is filed after a parent returns from active military duty, the court shall not consider a parent's absence due to that military duty in a best interest of the child determination.

(d) Utilize a guardian ad litem or the community resources in behavioral sciences and other professions in the investigation and study of custody disputes and consider their recommendations for the resolution of the disputes.

(e) Take any other action considered to be necessary in a particular child custody dispute.

(f) Upon petition consider the reasonable grandparenting time of maternal or paternal grandparents as provided in section 7b and, if denied, make a record of the denial.

(2) A judgment or order entered under this act providing for the support of a child is governed by and is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to

552.650, this act controls in regard to that provision.

History: 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1980, Act 161, Imd. Eff. June 18, 1980;—Am. 1985, Act 215, Eff. Mar. 1, 1986;—Am. 1988, Act 377, Eff. Mar. 30, 1989;—Am. 1989, Act 275, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 245, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 293, Imd. Eff. Dec. 14, 1990;—Am. 1996, Act 19, Eff. June 1, 1996;—Am. 1998, Act 482, Eff. Mar. 1, 1999;—Am. 1999, Act 156, Imd. Eff. Nov. 3, 1999;—Am. 2001, Act 108, Eff. Sept. 30, 2001;—Am. 2005, Act 328, Imd. Eff. Dec. 28, 2005.

CHILD CUSTODY ACT OF 1970 (EXCERPT)

Act 91 of 1970

722.27a Parenting time.

Sec. 7a. (1) Parenting time shall be granted in accordance with the best interests of the child. It is presumed to be in the best interests of a child for the child to have a strong relationship with both of his or her parents. Except as otherwise provided in this section, parenting time shall be granted to a parent in a frequency, duration, and type reasonably calculated to promote a strong relationship between the child and the parent granted parenting time.

(2) If the parents of a child agree on parenting time terms, the court shall order the parenting time terms unless the court determines on the record by clear and convincing evidence that the parenting time terms are not in the best interests of the child.

(3) A child has a right to parenting time with a parent unless it is shown on the record by clear and convincing evidence that it would endanger the child's physical, mental, or emotional health.

(4) Notwithstanding other provisions of this act, if a proceeding regarding parenting time involves a child who is conceived as the result of acts for which 1 of the child's biological parents is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.520a to 750.520e and 750.520g of the Michigan Compiled Laws, the court shall not grant parenting time to the convicted biological parent. This subsection does not apply to a conviction under section 520d(1)(a) of Act No. 328 of the Public Acts of 1931, being section 750.520d of the Michigan Compiled Laws. This subsection does not apply if, after the date of the conviction, the biological parents cohabit and establish a mutual custodial environment for the child.

(5) Notwithstanding other provisions of this act, if an individual is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of Act No. 328 of the Public Acts of 1931 and the victim is the individual's child, the court shall not grant parenting time with that child or a sibling of that child to that individual, unless both the child's other parent and, if the court considers the child or sibling to be of sufficient age to express his or her desires, the child or sibling consent to the parenting time.

(6) The court may consider the following factors when determining the frequency, duration, and type of parenting time to be granted:

(a) The existence of any special circumstances or needs of the child.

(b) Whether the child is a nursing child less than 6 months of age, or less than 1 year of age if the child receives substantial nutrition through nursing.

(c) The reasonable likelihood of abuse or neglect of the child during parenting time.

(d) The reasonable likelihood of abuse of a parent resulting from the exercise of parenting time.

(e) The inconvenience to, and burdensome impact or effect on, the child of traveling for purposes of parenting time.

(f) Whether a parent can reasonably be expected to exercise parenting time in accordance with the court order.

(g) Whether a parent has frequently failed to exercise reasonable parenting time.

(h) The threatened or actual detention of the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody. A custodial parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the custodial parent's intent to retain or conceal the child from the other parent.

(i) Any other relevant factors.

(7) Parenting time shall be granted in specific terms if requested by either party at any time.

(8) A parenting time order may contain any reasonable terms or conditions that facilitate the orderly and meaningful exercise of parenting time by a parent, including 1 or more of the following:

(a) Division of the responsibility to transport the child.

(b) Division of the cost of transporting the child.

(c) Restrictions on the presence of third persons during parenting time.

(d) Requirements that the child be ready for parenting time at a specific time.

(e) Requirements that the parent arrive for parenting time and return the child from parenting time at specific times.

- (f) Requirements that parenting time occur in the presence of a third person or agency.
 - (g) Requirements that a party post a bond to assure compliance with a parenting time order.
 - (h) Requirements of reasonable notice when parenting time will not occur.
 - (i) Any other reasonable condition determined to be appropriate in the particular case.
- (9) During the time a child is with a parent to whom parenting time has been awarded, that parent shall decide all routine matters concerning the child.
- (10) Prior to entry of a temporary order, a parent may seek an ex parte interim order concerning parenting time. If the court enters an ex parte interim order concerning parenting time, the party on whose motion the ex parte interim order is entered shall have a true copy of the order served on the friend of the court and the opposing party.
- (11) If the opposing party objects to the ex parte interim order, he or she shall file with the clerk of the court within 14 days after receiving notice of the order a written objection to, or a motion to modify or rescind, the ex parte interim order. The opposing party shall have a true copy of the written objection or motion served on the friend of the court and the party who obtained the ex parte interim order.
- (12) If the opposing party files a written objection to the ex parte interim order, the friend of the court shall attempt to resolve the dispute within 14 days after receiving it. If the matter cannot be resolved, the friend of the court shall provide the opposing party with a form motion and order with written instructions for their use in modifying or rescinding the ex parte order without assistance of counsel. If the opposing party wishes to proceed without assistance of counsel, the friend of the court shall schedule a hearing with the court that shall be held within 21 days after the filing of the motion. If the opposing party files a motion to modify or rescind the ex parte interim order and requests a hearing, the court shall resolve the dispute within 28 days after the hearing is requested.
- (13) An ex parte interim order issued under this section shall contain the following notice:

NOTICE:

1. You may file a written objection to this order or a motion to modify or rescind this order. You must file the written objection or motion with the clerk of the court within 14 days after you were served with this order. You must serve a true copy of the objection or motion on the friend of the court and the party who obtained the order.
2. If you file a written objection, the friend of the court must try to resolve the dispute. If the friend of the court cannot resolve the dispute and if you wish to bring the matter before the court without the assistance of counsel, the friend of the court must provide you with form pleadings and written instructions and must schedule a hearing with the court.

History: Add. 1988, Act 377, Eff. Mar. 30, 1989;—Am. 1993, Act 259, Imd. Eff. Nov. 29, 1993;—Am. 1996, Act 19, Eff. June 1, 1996.

Compiler's note: Former MCL 722.27a, which pertained to action by parent of deceased father or mother for visitation of unmarried minor child, was repealed by Act 161 of 1980, Imd. Eff. June 18, 1980.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.27b Order for grandparenting time; circumstances; acknowledgment of parentage; commencement of action; procedures; affidavit; notice; opposing affidavit; hearing; basis for entry of order; condition; record; court mediation; frequency of filing complaint or motion seeking order; attorney fees; order prohibiting change of domicile of grandchild; effect of entry of order; modifying or terminating order.

Sec. 7b. (1) A child's grandparent may seek a grandparenting time order under 1 or more of the following circumstances:

- (a) An action for divorce, separate maintenance, or annulment involving the child's parents is pending before the court.
- (b) The child's parents are divorced, separated under a judgment of separate maintenance, or have had their marriage annulled.
- (c) The child's parent who is a child of the grandparents is deceased.
- (d) The child's parents have never been married, they are not residing in the same household, and paternity has been established by the completion of an acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, by an order of filiation entered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, or by a determination by a court of competent jurisdiction that the individual is the father of the child.
- (e) Except as otherwise provided in subsection (13), legal custody of the child has been given to a person other than the child's parent, or the child is placed outside of and does not reside in the home of a parent.

(f) In the year preceding the commencement of an action under subsection (3) for grandparenting time, the grandparent provided an established custodial environment for the child as described in section 7, whether or not the grandparent had custody under a court order.

(2) A court shall not permit a parent of a father who has never been married to the child's mother to seek an order for grandparenting time under this section unless the father has completed an acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, an order of filiation has been entered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, or the father has been determined to be the father by a court of competent jurisdiction. The court shall not permit the parent of a putative father to seek an order for grandparenting time unless the putative father has provided substantial and regular support or care in accordance with the putative father's ability to provide the support or care.

(3) A grandparent seeking a grandparenting time order shall commence an action for grandparenting time, as follows:

(a) If the circuit court has continuing jurisdiction over the child, the child's grandparent shall seek a grandparenting time order by filing a motion with the circuit court in the county where the court has continuing jurisdiction.

(b) If the circuit court does not have continuing jurisdiction over the child, the child's grandparent shall seek a grandparenting time order by filing a complaint in the circuit court for the county where the child resides.

(4) All of the following apply to an action for grandparenting time under subsection (3):

(a) The complaint or motion for grandparenting time filed under subsection (3) shall be accompanied by an affidavit setting forth facts supporting the requested order. The grandparent shall give notice of the filing to each person who has legal custody of, or an order for parenting time with, the child. A party having legal custody may file an opposing affidavit. A hearing shall be held by the court on its own motion or if a party requests a hearing. At the hearing, parties submitting affidavits shall be allowed an opportunity to be heard.

(b) In order to give deference to the decisions of fit parents, it is presumed in a proceeding under this subsection that a fit parent's decision to deny grandparenting time does not create a substantial risk of harm to the child's mental, physical, or emotional health. To rebut the presumption created in this subdivision, a grandparent filing a complaint or motion under this section must prove by a preponderance of the evidence that the parent's decision to deny grandparenting time creates a substantial risk of harm to the child's mental, physical, or emotional health. If the grandparent does not overcome the presumption, the court shall dismiss the complaint or deny the motion.

(c) If a court of appellate jurisdiction determines in a final and nonappealable judgment that the burden of proof described in subdivision (b) is unconstitutional, a grandparent filing a complaint or motion under this section must prove by clear and convincing evidence that the parent's decision to deny grandparenting time creates a substantial risk of harm to the child's mental, physical, or emotional health to rebut the presumption created in subdivision (b).

(5) If 2 fit parents sign an affidavit stating that they both oppose an order for grandparenting time, the court shall dismiss a complaint or motion seeking an order for grandparenting time filed under subsection (3). This subsection does not apply if 1 of the fit parents is a stepparent who adopted a child under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, and the grandparent seeking the order is the natural or adoptive parent of a parent of the child who is deceased or whose parental rights have been terminated.

(6) If the court finds that a grandparent has met the standard for rebutting the presumption described in subsection (4), the court shall consider whether it is in the best interests of the child to enter an order for grandparenting time. If the court finds by a preponderance of the evidence that it is in the best interests of the child to enter a grandparenting time order, the court shall enter an order providing for reasonable grandparenting time of the child by the grandparent by general or specific terms and conditions. In determining the best interests of the child under this subsection, the court shall consider all of the following:

(a) The love, affection, and other emotional ties existing between the grandparent and the child.

(b) The length and quality of the prior relationship between the child and the grandparent, the role performed by the grandparent, and the existing emotional ties of the child to the grandparent.

(c) The grandparent's moral fitness.

(d) The grandparent's mental and physical health.

(e) The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference.

(f) The effect on the child of hostility between the grandparent and the parent of the child.

(g) The willingness of the grandparent, except in the case of abuse or neglect, to encourage a close relationship between the child and the parent or parents of the child.

- (h) Any history of physical, emotional, or sexual abuse or neglect of any child by the grandparent.
 - (i) Whether the parent's decision to deny, or lack of an offer of, grandparenting time is related to the child's well-being or is for some other unrelated reason.
 - (j) Any other factor relevant to the physical and psychological well-being of the child.
- (7) If the court has determined that a grandparent has met the standard for rebutting the presumption described in subsection (4), the court may refer that grandparent's complaint or motion for grandparenting time filed under subsection (3) to domestic relations mediation as provided by supreme court rule. If the complaint or motion is referred to the friend of the court mediation service and no settlement is reached through friend of the court mediation within a reasonable time after the date of referral, the complaint or motion shall be heard by the court as provided in this section.
- (8) A grandparent may not file more than once every 2 years, absent a showing of good cause, a complaint or motion under subsection (3) seeking a grandparenting time order. If the court finds there is good cause to allow a grandparent to file more than 1 complaint or motion under this section in a 2-year period, the court shall allow the filing and shall consider the complaint or motion. Upon motion of a person, the court may order reasonable attorney fees to the prevailing party.
- (9) The court shall not enter an order prohibiting an individual who has legal custody of a child from changing the domicile of the child if the prohibition is primarily for the purpose of allowing a grandparent to exercise the rights conferred in a grandparenting time order entered under this section.
- (10) A grandparenting time order entered under this section does not create parental rights in the individual or individuals to whom grandparenting time rights are granted. The entry of a grandparenting time order does not prevent a court of competent jurisdiction from acting upon the custody of the child, the parental rights of the child, or the adoption of the child.
- (11) A court shall not modify or terminate a grandparenting time order entered under this section unless it finds by a preponderance of the evidence, on the basis of facts that have arisen since entry of the grandparenting time order or were unknown to the court at the time it entered that order, that a change has occurred in the circumstances of the child or his or her custodian and that a modification or termination of the existing order is necessary to avoid creating a substantial risk of harm to the mental, physical, or emotional health of the child. A court modifying or terminating a grandparenting time order under this subsection shall include specific findings of fact in its order in support of its decision.
- (12) The court shall make a record of its analysis and findings under subsections (4), (6), (8), and (11), including the reasons for granting or denying a requested grandparenting time order.
- (13) Except as otherwise provided in this subsection, adoption of a child or placement of a child for adoption under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, terminates the right of a grandparent to commence an action for grandparenting time with that child. Adoption of a child by a stepparent under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, does not terminate the right of the parent of a deceased parent of the child to commence an action for grandparenting time with that child.

History: Add. 1982, Act 340, Imd. Eff. Dec. 17, 1982;—Am. 1996, Act 19, Eff. June 1, 1996;—Am. 2004, Act 542, Imd. Eff. Jan. 3, 2005;—Am. 2006, Act 353, Imd. Eff. Sept. 18, 2006.

Constitutionality: The Michigan Court of Appeals in DeRose v DeRose, 249 Mich App 388; 643 NW 2d 259 (2002) held that section 7b of the child custody act of 1970, 1970 PA 91, MCL 722.27b, is unconstitutional. The Michigan Supreme Court affirmed. [DeRose v DeRose, SC docket No. 121246, filed July 31, 2003] The Michigan Supreme Court held that it was bound by the decision in U.S. Supreme Court in Troxel v Granville, 530 US 57; 120 S Ct 2054; 147 L Ed 2d 49 (2000). The U.S. Supreme Court established in that decision that parents have a fundamental right to raise their children, and on that basis, "the parents have the right to make decisions for children, and such decisions must be accorded deference or weight." The Michigan Supreme Court held that MCL 722.27b failed to "require that a trial court accord deference to the decisions of fit parents regarding grandparent visitation" and is therefore constitutionally invalid.

CHILD CUSTODY ACT OF 1970 (EXCERPT)

Act 91 of 1970

722.28 Child custody disputes; appeal, grounds.

Sec. 8. To expedite the resolution of a child custody dispute by prompt and final adjudication, all orders and judgments of the circuit court shall be affirmed on appeal unless the trial judge made findings of fact against the great weight of evidence or committed a palpable abuse of discretion or a clear legal error on a major issue.

History: 1970, Act 91, Eff. Apr. 1, 1971.

CHILD CUSTODY ACT OF 1970 (EXCERPT)

Act 91 of 1970

722.29 Transition to centralized receipt and disbursement of support and fees.

Sec. 9. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

History: 1970, Act 91, Eff. Apr. 1, 1971;—Am. 1999, Act 156, Imd. Eff. Nov. 3, 1999.

CHILD CUSTODY ACT OF 1970 (EXCERPT)

Act 91 of 1970

722.30 Access to records or information by noncustodial parent.

Sec. 10. Notwithstanding any other provision of law, a parent shall not be denied access to records or information concerning his or her child because the parent is not the child's custodial parent, unless the parent is prohibited from having access to the records or information by a protective order. As used in this section, "records or information" includes, but is not limited to, medical, dental, and school records, day care provider's records, and notification of meetings regarding the child's education.

History: Add. 1996, Act 304, Eff. Jan. 1, 1997.

AGE OF MAJORITY ACT OF 1971 (EXCERPT)

Act 79 of 1971

722.52 Adult of legal age; support payments for person 18 years of age or older.

Sec. 2. (1) Except as otherwise provided in the state constitution of 1963 and subsection (2), notwithstanding any other provision of law to the contrary, a person who is at least 18 years of age on or after January 1, 1972, is an adult of legal age for all purposes whatsoever, and shall have the same duties, liabilities, responsibilities, rights, and legal capacity as persons heretofore acquired at 21 years of age.

(2) A court may order support payments for a person 18 years of age or older as provided in 1 or more of the following:

(a) Chapter 84 of the revised statutes of 1846, being sections 552.1 to 552.45 of the Michigan Compiled Laws.

(b) The child custody act of 1970, Act No. 91 of the Public Acts of 1970, being sections 722.21 to 722.29 of the Michigan Compiled Laws.

(c) The family support act, Act No. 138 of the Public Acts of 1966, being sections 552.451 to 552.459 of the Michigan Compiled Laws.

(d) The paternity act, Act No. 205 of the Public Acts of 1956, being sections 722.711 to 722.730 of the Michigan Compiled Laws.

(e) Act No. 293 of the Public Acts of 1968, being sections 722.1 to 722.6 of the Michigan Compiled Laws.

History: 1971, Act 79, Eff. Jan. 1, 1972;—Am. 1990, Act 104, Eff. Oct. 10, 1990.

Compiler's note: In subsection (2)(a), the phrase "revised statutes of 1846" evidently should read "Revised Statutes of 1846."

THE PATERNITY ACT (EXCERPT)

Act 205 of 1956

722.711 Definitions.

Sec. 1. As used in this act:

(a) "Child born out of wedlock" means a child begotten and born to a woman who was not married from the conception to the date of birth of the child, or a child that the court has determined to be a child born or conceived during a marriage but not the issue of that marriage.

(b) "Child" means a child born out of wedlock.

(c) "Mother" means the mother of a child born out of wedlock.

(d) "Court" means the circuit court.

(e) "DNA identification profile" means the results of the DNA identification profiling of genetic testing material.

(f) "DNA identification profiling" means a validated scientific method of analyzing components of deoxyribonucleic acid molecules in a sample of genetic testing material to identify the pattern of the components' chemical structure that is unique to the individual.

(g) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(h) "Genetic testing material" means a sample of an individual's blood, saliva, or tissue collected from the individual that is used for genetic paternity testing conducted under this act.

(i) "Summary report" means a written summary of the DNA identification profile that includes only the following information:

(i) The court case number, if applicable, the laboratory case number or identification number, and the family independence agency case number.

(ii) The mother's name and race.

(iii) The child's name.

(iv) The alleged father's name and race.

(v) The collection dates and identification numbers of the genetic testing material.

(vi) The cumulative paternity index.

(vii) The probability of paternity.

(viii) The conclusion as to whether the alleged father can or cannot be excluded as the biological father.

(ix) The name, address, and telephone number of the contracting laboratory.

(x) The name of the individual certifying the report.

History: 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1980, Act 54, Imd. Eff. Mar. 31, 1980;—Am. 1986, Act 107, Eff. June 1, 1986;—Am. 1998, Act 113, Eff. Aug. 10, 1998;—Am. 1999, Act 157, Imd. Eff. Nov. 3, 1999;—Am. 2000, Act 31, Imd. Eff. Mar. 15, 2000.

THE PATERNITY ACT (EXCERPT)

Act 205 of 1956

722.714 Paternity proceeding; parties; venue; action not required; commencement of action; statute of limitations; initiating and conducting proceedings; utilization of child support formula; verification of complaint; charge; summons; default judgment; genetic paternity testing; next friend or guardian ad litem; rights of indigent defendant; order of filiation.

Sec. 4. (1) An action under this act shall be brought in the circuit court by the mother, the father, a child who became 18 years of age after August 15, 1984 and before June 2, 1986, or the family independence agency as provided in this act. The Michigan court rules for civil actions apply to all proceedings under this act. A complaint shall be filed in the county where the mother or child resides. If both the mother and child reside outside of this state, then the complaint shall be filed in the county where the putative father resides or is found. The fact that the child was conceived or born outside of this state is not a bar to entering a complaint against the putative father.

(2) An action to determine paternity shall not be brought under this act if the child's father acknowledges paternity under the acknowledgment of parentage act, or if the child's paternity is established under the law of another state.

(3) An action under this act may be commenced during the pregnancy of the child's mother or at any time before the child reaches 18 years of age. For a child who became 18 years of age after August 15, 1984 and before June 2, 1986, an action under this act may be commenced before January 1, 1995. This subsection applies regardless of whether the cause of action accrued before June 1, 1986 and regardless of whether the cause of action was barred under this subsection before June 1, 1986. A summons issued under this section shall be in the form the court determines and shall be served in the same manner as is provided by court rules for the service of process in civil actions.

(4) If the county family independence agency of the county in which the mother or alleged father resides first determines that she or he has physical possession of the child and is eligible for public assistance or without means to employ an attorney; if the family independence agency is the complainant; or if the mother, alleged father, or child is receiving services under part D of title IV of the social security act, 42 U.S.C. 651 to 667, then the prosecuting attorney or an attorney employed by the county under section 1 of 1941 PA 15, MCL 49.71, shall initiate and conduct proceedings under this act. The prosecuting attorney shall utilize the child support formula developed under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519, as a guideline in petitioning for child support. A complaint filed under this act shall be verified by oath or affirmation.

(5) The party filing the complaint shall name the person believed to be the father of the child and state in the complaint the time and place, as near as possible, when and where the mother became pregnant. If the family independence agency is the plaintiff, the required facts shall be stated upon information and belief.

(6) Upon the filing of a complaint, the court shall issue a summons against the named defendant. If the defendant does not file and serve a responsive pleading as required by the court rules, the court may enter a default judgment. Neither party is required to testify before entry of a default judgment in a proceeding under this act.

(7) If, after service of process, the parties fail to consent to an order naming the man as the child's father as provided in this act within the time permitted for a responsive pleading, then the family independence agency

or its designee may file and serve both the mother and the alleged father with a notice requiring that the mother, alleged father, and child appear for genetic paternity testing as provided in section 6.

(8) If the mother, alleged father, or child does not appear for genetic paternity testing as provided in subsection (7), then the family independence agency or its designee may apply to the court for an order compelling genetic paternity tests as provided in section 6 or may seek other relief as permitted by statute or court rule.

(9) It is unnecessary in any proceedings under this act commenced by or against a minor to have a next friend or guardian ad litem appointed for the minor unless required by the circuit judge. A minor may prosecute or defend any proceedings in the same manner and with the same effect as if he or she were of legal age.

(10) If a child born out of wedlock is being supported in whole or in part by public assistance, including medical assistance, the family independence agency may file a complaint on behalf of the child in the circuit court in the county in which the child resides. The mother or alleged father of the child shall be made a party plaintiff and notified of the hearing on the complaint by summons. The complaint made by the family independence agency shall be verified by the director of the family independence agency, or his or her designated representative, or by the director of the county family independence agency of the county in which an action is brought, or the county director's designated representative.

(11) 1986 PA 107, which added this subsection, does not affect the rights of an indigent defendant in proceedings under this act as established by decisions of the courts of this state before June 1, 1986.

(12) If a determination of paternity is made under this act, the court may enter an order of filiation as provided in section 7. Regardless of who commences an action under this act, an order of filiation entered under this act has the same effect, is subject to the same provisions, and is enforced in the same manner as an order of filiation entered on complaint of the mother or father.

History: 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1962, Act 238, Eff. Mar. 28, 1963;—Am. 1972, Act 98, Eff. Mar. 30, 1973;—Am. 1986, Act 107, Eff. June 1, 1986;—Am. 1992, Act 289, Eff. Jan. 1, 1993;—Am. 1994, Act 388, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 308, Eff. June 1, 1997;—Am. 1998, Act 113, Eff. Aug. 10, 1998.

THE PATERNITY ACT (EXCERPT)

Act 205 of 1956

722.716 Pretrial proceedings; blood or tissue typing determinations as to mother, child, and alleged father; court order; refusal to submit to typing or identification profiling; qualifications of person conducting typing or identification profiling; compensation of expert; result of typing or identification profiling; filing summary report; objection; admissibility; presumption; burden of proof; summary disposition.

Sec. 6. (1) In a proceeding under this act before trial, the court, upon application made by or on behalf of either party, or on its own motion, shall order that the mother, child, and alleged father submit to blood or tissue typing determinations, which may include, but are not limited to, determinations of red cell antigens, red cell isoenzymes, human leukocyte antigens, serum proteins, or DNA identification profiling, to determine whether the alleged father is likely to be, or is not, the father of the child. If the court orders a blood or tissue typing or DNA identification profiling to be conducted and a party refuses to submit to the typing or DNA identification profiling, in addition to any other remedies available, the court may do either of the following:

(a) Enter a default judgment at the request of the appropriate party.

(b) If a trial is held, allow the disclosure of the fact of the refusal unless good cause is shown for not disclosing the fact of refusal.

(2) A blood or tissue typing or DNA identification profiling shall be conducted by a person accredited for paternity determinations by a nationally recognized scientific organization, including, but not limited to, the American association of blood banks.

(3) The court shall fix the compensation of an expert at a reasonable amount and may direct the compensation to be paid by the county or by any other party to the case, or by both in the proportions and at the times the court prescribes. Before blood or tissue typing or DNA identification profiling is conducted, the court may order a part or all of the compensation paid in advance. If the family independence agency paid for the genetic testing expenses, the court may order repayment by the alleged father if the court declares paternity. Documentation of the genetic testing expenses is admissible as evidence of the amount, which evidence constitutes prima facie evidence of the amount of those expenses without third party foundation testimony.

(4) Subject to subsection (5), the result of blood or tissue typing or a DNA identification profile and the summary report shall be served on the mother and alleged father. The summary report shall be filed with the

court. Objection to the DNA identification profile or summary report is waived unless made in writing, setting forth the specific basis for the objection, within 14 calendar days after service on the mother and alleged father. The court shall not schedule a trial on the issue of paternity until after the expiration of the 14-day period. If an objection is not filed, the court shall admit in proceedings under this act the result of the blood or tissue typing or the DNA identification profile and the summary report without requiring foundation testimony or other proof of authenticity or accuracy. If an objection is filed within the 14-day period, on the motion of either party, the court shall hold a hearing to determine the admissibility of the DNA identification profile or summary report. The objecting party has the burden of proving by clear and convincing evidence by a qualified person described in subsection (2) that foundation testimony or other proof of authenticity or accuracy is necessary for admission of the DNA identification profile or summary report.

(5) If the probability of paternity determined by the qualified person described in subsection (2) conducting the blood or tissue typing or DNA identification profiling is 99% or higher, and the DNA identification profile and summary report are admissible as provided in subsection (4), paternity is presumed. If the results of the analysis of genetic testing material from 2 or more persons indicate a probability of paternity greater than 99%, the contracting laboratory shall conduct additional genetic paternity testing until all but 1 of the putative fathers is eliminated, unless the dispute involves 2 or more putative fathers who have identical DNA.

(6) Upon the establishment of the presumption of paternity as provided in subsection (5), either party may move for summary disposition under the court rules. This section does not abrogate the right of either party to child support from the date of birth of the child if applicable under section 7.

History: 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1982, Act 129, Imd. Eff. Apr. 20, 1982;—Am. 1989, Act 258, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 303, Imd. Eff. Dec. 14, 1990;—Am. 1994, Act 388, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 308, Eff. June 1, 1997;—Am. 1998, Act 113, Eff. Aug. 10, 1998;—Am. 2000, Act 31, Imd. Eff. Mar. 15, 2000.

THE PATERNITY ACT (EXCERPT)

Act 205 of 1956

722.717 Order of filiation; circumstances; contents; support order; retroactivity; enforcement of judgment or order; fee; reports to director of department of community health; service of copies to parties.

Sec. 7. (1) The court shall enter an order of filiation declaring paternity and providing for the support of the child under 1 or more of the following circumstances:

(a) The finding of the court or the verdict determines that the man is the father.

(b) The defendant acknowledges paternity either orally to the court or by filing with the court a written acknowledgment of paternity.

(c) The defendant is served with summons and a default judgment is entered against him or her.

(2) An order of filiation entered under subsection (1) shall specify the sum to be paid weekly or otherwise, as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605, until the child reaches the age of 18. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for a child after he or she reaches 18 years of age. In addition to providing for the support of the child, the order shall also provide for the payment of the necessary expenses incurred by or for the mother in connection with her confinement and pregnancy and for the funeral expenses if the child has died, as determined by the court under section 2. A child support obligation is only retroactive to the date that the paternity complaint was filed unless any of the following circumstances exist:

(a) The defendant was avoiding service of process.

(b) The defendant threatened or coerced through domestic violence or other means the complainant not to file a proceeding under this act.

(c) The defendant otherwise delayed the imposition of a support obligation.

(3) A judgment or order entered under this act providing for the support of a child or payment of expenses in connection with the mother's confinement or pregnancy is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

(4) Upon entry of an order of filiation, the clerk of the court shall collect a fee of \$35.00 from the person against whom the order of filiation is entered. The clerk shall retain \$9.00 of the fee and remit the \$26.00 balance, along with a written report of the order of filiation, to the director of the department of community health. The report shall be on a form prescribed by or in a manner approved by the director of the department of community health. Regardless of whether the fee required by this section is collected, the clerk shall

transmit and the department of community health shall receive the report of the order of filiation.

(5) If an order of filiation or acknowledgment of parentage is abrogated by a later judgment or order of a court, the clerk of the court that entered the order shall immediately communicate that fact to the director of the department of community health on a form prescribed by the director of the department of community health. An order of filiation supersedes an acknowledgment of parentage.

(6) Within the time prescribed by court rule, the party, attorney, or agency that secures the signing of an order of filiation shall serve a copy of the order on all parties to the action and file proof of service with the court clerk.

History: 1956, Act 205, Eff. Aug. 11, 1956;—Am. 1962, Act 238, Eff. Mar. 28, 1963;—Am. 1986, Act 107, Eff. June 1, 1986;—Am. 1989, Act 277, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 244, Imd. Eff. Oct. 10, 1990;—Am. 1990, Act 294, Imd. Eff. Dec. 14, 1990;—Am. 1993, Act 146, Imd. Eff. Aug. 19, 1993;—Am. 1994, Act 388, Eff. Oct. 1, 1995;—Am. 1996, Act 18, Eff. June 1, 1996;—Am. 1996, Act 308, Eff. June 1, 1997;—Am. 2001, Act 109, Eff. Sept. 30, 2001;—Am. 2004, Act 209, Eff. Oct. 1, 2004.

THE PATERNITY ACT (EXCERPT)

Act 205 of 1956

722.717b Provisions for custody and parenting time; temporary order in case of dispute; referral to friend of the court; attorneys not required to represent parties in dispute.

Sec. 7b. If the court makes a determination of paternity and there is no dispute regarding custody, the court shall include in the order of filiation specific provisions for the custody and parenting time of the child as provided in the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being sections 722.21 to 722.29 of the Michigan Compiled Laws. If there is a dispute between the parties concerning custody or parenting time, the court shall immediately enter an order that establishes support and temporarily establishes custody of and parenting time with the child. Pending a hearing on or other resolution of the dispute, the court may also refer the matter to the friend of the court for a report and recommendation as provided in section 5 of the friend of the court act, Act No. 294 of the Public Acts of 1982, being section 552.505 of the Michigan Compiled Laws. In a dispute regarding custody or parenting time, the prosecuting attorney, an attorney appointed by the county, or an attorney appointed by the court under section 4 shall not be required to represent either party regarding that dispute.

History: Add. 1994, Act 388, Eff. Oct. 1, 1995;—Am. 1996, Act 18, Eff. June 1, 1996;—Am. 1996, Act 308, Eff. June 1, 1997.

THE PATERNITY ACT (EXCERPT)

Act 205 of 1956

722.729a Transition to centralized receipt and disbursement of support and fees.

Sec. 19a. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

History: Add. 1999, Act 157, Imd. Eff. Nov. 3, 1999.

SURROGATE PARENTING ACT (EXCERPT)

Act 199 of 1988

722.861 Custody of child.

Sec. 11. If a child is born to a surrogate mother or surrogate carrier pursuant to a surrogate parentage contract, and there is a dispute between the parties concerning custody of the child, the party having physical custody of the child may retain physical custody of the child until the circuit court orders otherwise. The circuit court shall award legal custody of the child based on a determination of the best interests of the child. As used in this section, “best interests of the child” means that term as defined in section 3 of the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being section 722.23 of the Michigan Compiled Laws.

History: 1988, Act 199, Eff. Sept. 1, 1988.

ACKNOWLEDGMENT OF PARENTAGE ACT (EXCERPT)

Act 305 of 1996

722.1004 Acknowledgment as basis for court ordered child support, custody, or parenting time; relationship and status of child.

Sec. 4. An acknowledgment signed under this act establishes paternity, and the acknowledgment may be the basis for court ordered child support, custody, or parenting time without further adjudication under the

paternity act, Act No. 205 of the Public Acts of 1956, being sections 722.711 to 722.730 of the Michigan Compiled Laws. The child who is the subject of the acknowledgment shall bear the same relationship to the mother and the man signing as the father as a child born or conceived during a marriage and shall have the identical status, rights, and duties of a child born in lawful wedlock effective from birth.

History: 1996, Act 305, Eff. June 1, 1997.

ACKNOWLEDGMENT OF PARENTAGE ACT (EXCERPT)
Act 305 of 1996

722.1007 Notices.

Sec. 7. The acknowledgment of parentage form shall include at least all of the following written notices to the parties:

- (a) The acknowledgment of parentage is a legal document.
- (b) Completion of the acknowledgment is voluntary.
- (c) The mother has initial custody of the child, without prejudice to the determination of either parent's custodial rights, until otherwise determined by the court or agreed by the parties in writing and acknowledged by the court. This grant of initial custody to the mother shall not, by itself, affect the rights of either parent in a proceeding to seek a court order for custody or parenting time.
- (d) Either parent may assert a claim in court for parenting time or custody.
- (e) The parents have a right to notice and a hearing regarding the adoption of the child.
- (f) Both parents have the responsibility to support the child and to comply with a court or administrative order for the child's support.
- (g) Notice that signing the acknowledgment waives the following:
 - (i) Blood or genetic tests to determine if the man is the biological father of the child.
 - (ii) Any right to an attorney, including the prosecuting attorney or an attorney appointed by the court in the case of indigency, to represent either party in a court action to determine if the man is the biological father of the child.
 - (iii) A trial to determine if the man is the biological father of the child.
- (h) That in order to revoke an acknowledgement of parentage, an individual must file a claim as provided under section 11.

History: 1996, Act 305, Eff. June 1, 1997;—Am. 2006, Act 105, Imd. Eff. Apr. 7, 2006.

ACKNOWLEDGMENT OF PARENTAGE ACT (EXCERPT)
Act 305 of 1996

722.1011 Acknowledgment of parentage; claim for revocation.

Sec. 11. (1) The mother or the man who signed the acknowledgment, the child who is the subject of the acknowledgment, or a prosecuting attorney may file a claim for revocation of an acknowledgment of parentage. If filed as an original action, the claim shall be filed in the circuit court of the county where either the mother or man resides. If neither of those parties lives in this state, the claim shall be filed in the county where the child resides. A claim for revocation may be filed as a motion in an existing action for child support, custody, or parenting time in the county where the action is and all provisions in this act apply as if it were an original action.

(2) A claim for revocation shall be supported by an affidavit signed by the claimant setting forth facts that constitute 1 of the following:

- (a) Mistake of fact.
- (b) Newly discovered evidence that by due diligence could not have been found before the acknowledgment was signed.

- (c) Fraud.
- (d) Misrepresentation or misconduct.
- (e) Duress in signing the acknowledgment.

(3) If the court finds that the affidavit is sufficient, the court may order blood or genetic tests at the expense of the claimant, or may take other action the court considers appropriate. The party filing the claim for revocation has the burden of proving, by clear and convincing evidence, that the man is not the father and that, considering the equities of the case, revocation of the acknowledgment is proper.

(4) A copy of the order of revocation shall be forwarded by the clerk of the court to the state registrar. The state registrar shall vacate the acknowledgment and may amend the birth certificate as prescribed by the order of revocation.

(5) Whether the claim for revocation under this act arises as an original action or as a motion in another action, the prosecuting attorney, an attorney appointed by the county, or an attorney appointed by the court is

not required to represent either party regarding the claim for revocation.

History: 1996, Act 305, Eff. June 1, 1997.

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.165 Refusing to support spouse or child as required by court order; violation as felony; penalty; exception; cash bond; suspension of sentence; bond; "state disbursement unit" or "SDU" defined.

Sec. 165. (1) If the court orders an individual to pay support for the individual's former or current spouse, or for a child of the individual, and the individual does not pay the support in the amount or at the time stated in the order, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than \$2,000.00, or both.

(2) This section does not apply unless the individual ordered to pay support appeared in, or received notice by personal service of, the action in which the support order was issued.

(3) Unless the individual deposits a cash bond of not less than \$500.00 or 25% of the arrearage, whichever is greater, upon arrest for a violation of this section, the individual shall remain in custody until the arraignment. If the individual remains in custody, the court shall address the amount of the cash bond at the arraignment and at the preliminary examination and, except for good cause shown on the record, shall order the bond to be continued at not less than \$500.00 or 25% of the arrearage, whichever is greater. At the court's discretion, the court may set the cash bond at an amount not more than 100% of the arrearage and add to that amount the amount of the costs that the court may require under section 31(3) of the support and parenting time enforcement act, 1982 PA 295, MCL 552.631. The court shall specify that the cash bond amount be entered into the L.E.I.N. If a bench warrant under section 31 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.631, is outstanding for an individual when the individual is arrested for a violation of this section, the court shall notify the court handling the civil support case under the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, that the bench warrant may be recalled.

(4) The court may suspend the sentence of an individual convicted under this section if the individual files with the court a bond in the amount and with the sureties the court requires. At a minimum, the bond must be conditioned on the individual's compliance with the support order. If the court suspends a sentence under this subsection and the individual does not comply with the support order or another condition on the bond, the court may order the individual to appear and show cause why the court should not impose the sentence and enforce the bond. After the hearing, the court may enforce the bond or impose the sentence, or both, or may permit the filing of a new bond and again suspend the sentence. The court shall order a support amount enforced under this section to be paid to the clerk or friend of the court or to the state disbursement unit.

(5) As used in this section, "state disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1939, Act 89, Eff. Sept. 29, 1939;—CL 1948, 750.165;—Am. 1999, Act 152, Imd. Eff. Nov. 3, 1999;—Am. 2004, Act 570, Imd. Eff. Jan. 3, 2005.

Former law: See section 1 of Act 276 of 1917, being CL 1929, § 12781.

REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (EXCERPT)
Act 8 of 1952

780.153a Definitions; C to O.

Sec. 3a. (1) "Court" means the appropriate circuit court of this state and, when the context requires, means the appropriate court of any other state as defined in a substantially similar reciprocal law.

(2) "Duty of support" means any duty of support owed to an obligee whether imposed or imposable by law or by order, decree, or judgment of any court, whether temporary or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid. "Duty of support" also includes the duty to reimburse a state or political subdivision for support furnished to an obligee.

(3) "Foreign support order" means a support order issued by a state other than Michigan.

(4) "Governor" means any person performing the functions of governor or the executive authority of any state covered by this or a substantially reciprocal law.

(5) "Initiating court" means the court in which a proceeding is commenced.

(6) "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(7) "Interstate central registry" means the entity in a state that is established pursuant to federal regulation and that is responsible for receiving, reviewing, forwarding, and responding to inquiries about interstate child support actions.

(8) "Law" means both common and statutory law.

(9) "Obligee" means a person, including a state or political subdivision, to whom a duty of support is owed or a person, including a state or political subdivision, who has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(10) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(11) "Office of the friend of the court" means the agency created in section 3 of Act No. 294 of the Public Acts of 1982, being section 552.503 of the Michigan Compiled Laws.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (EXCERPT)
Act 8 of 1952

780.153b Definitions; P to S.

Sec. 3b. (1) "Prosecuting attorney" means the public official in the appropriate jurisdiction who has the duty to enforce criminal laws relating to the failure to provide for the support of a person.

(2) "Register" means to file in the registry of foreign support orders.

(3) "Registering court" means a court of this state in which a support order of a rendering state is registered.

(4) "Rendering state" means a state in which a court has issued a support order for which registration is sought or granted in a court of another state.

(5) "Responding court" means the court in which a responsive proceeding is commenced.

(6) "Responding state" means a state in which a responsive proceeding pursuant to the proceeding in the initiating state is commenced.

(7) "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(8) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(9) "Support order" means a judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (EXCERPT)
Act 8 of 1952

780.162b Duties of office of child support; use of state locator service.

Sec. 12b. (1) The office of child support of the state department of social services is designated as the state information agency and the interstate central registry under this act, and it shall do all of the following:

(a) Distribute copies of any amendments to the act and a statement of their effective date to all other state information agencies.

(b) Maintain a list of each interstate central registry in the United States and its address, and provide the list to every prosecutor's office and office of the friend of the court in this state.

(c) Maintain a supply of duplicated copies of this act, as amended, for the use of court officers in preparing cases to be forwarded to responding states.

(d) Act generally as a clearing center for information and maintain general liaison with the council of state governments, law enforcement agencies, the legislature, other governmental or private agencies concerned with this act, and the public.

(e) Forward to the court in this state which has proper venue, as determined under section 10, the petitions, certificates, and copies of the act it receives from courts or information agencies of other states.

(2) If the state information agency does not know the location of the obligor or the obligor's property, the agency shall use its state locator service to obtain this information.

History: Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (EXCERPT)

Act 8 of 1952

780.163 Court acting as responding court; docketing case; notification of prosecuting attorney; duties of prosecuting attorney; utilization of child support formula.

Sec. 13. (1) When the court of this state, acting as a responding court, receives from the interstate central registry of this state copies of the petition, certificate, and act, the clerk of the court shall docket the case and notify the prosecuting attorney of the county, who shall be charged with the duty of carrying on the proceedings.

(2) The prosecuting attorney shall take all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or the obligor's property. He or she shall prosecute the case diligently.

(3) A prosecuting attorney petitioning for child support under this act shall utilize as a guideline the child support formula developed under section 19 of the friend of the court act, Act No. 294 of the Public Acts of 1982, being section 552.519 of the Michigan Compiled Laws.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (EXCERPT)

Act 8 of 1952

780.164 Support order; payments; amount; deviation from formula.

Sec. 14. (1) If the court of this state when acting as a responding court finds a duty of support, the court may order the obligor to furnish support and subject the property of the obligor to the order. The support order shall require that payments be made to the office of the friend of the court or the state disbursement unit, as appropriate.

(2) Except as otherwise provided in this section, the court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

- (a) The support amount determined by application of the child support formula.
- (b) How the support order deviates from the child support formula.
- (c) The value of property or other support awarded in lieu of the payment of child support, if applicable.
- (d) The reasons why application of the child support formula would be unjust or inappropriate in the case.

(3) Subsection (2) does not prohibit the court from entering a support order that is agreed to by the parties and that deviates from the child support formula, if the requirements of subsection (2) are met.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1989, Act 279, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (EXCERPT)

Act 8 of 1952

780.164a Transition to centralized receipt and disbursement of support and fees.

Sec. 14a. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 6 of the office of child support act, 1971 PA 174, MCL 400.236, and modifications to that schedule as the department considers necessary.

History: Add. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (EXCERPT)

Act 8 of 1952

780.173 Reimbursement of county for cost of enforcing spousal or child support or parenting time order; service fee; computation, payment, and disposition; failure or refusal to pay service fee; contempt.

Sec. 23. (1) To reimburse the county for the cost of enforcing a spousal or child support or a parenting time order under this act, the court shall order the payment of a service fee of \$2.00 per month, payable semiannually on each January 2 and July 2. The service fee shall be paid by the person ordered to pay the spousal or child support. The fee shall be computed from the beginning date of the spousal or child support

order and shall continue while the spousal or child support order is operative. The service fee shall be paid 6 months in advance on each due date, except for the first payment, which shall be paid at the same time the spousal or child support order is filed, and covers the period of time from that month until the next calendar due date. An order or judgment for the payment of temporary or permanent spousal or child support shall provide for the payment of the service fee. Upon its own motion, a court may amend an order or judgment for the payment of temporary or permanent spousal or child support to provide for the payment of the service fee in the amount provided by this subsection, upon proper notice to the person ordered to pay the spousal or child support. The service fees shall be turned over to the county treasurer and credited to the general fund of the county.

(2) The court may hold in contempt a person who fails or refuses to pay a service fee ordered under subsection (1).

History: Add. 1955, Act 161, Imd. Eff. June 7, 1955;—Am. 1959, Act 108, Eff. Mar. 19, 1960;—Am. 1967, Act 72, Eff. Jan. 1, 1968 ;—Am. 1983, Act 192, Imd. Eff. Nov. 1, 1983;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

DAY PAROLE OF PRISONERS (EXCERPT)

Act 60 of 1962

801.252 Employed prisoner; collection of wages; garnishment.

Sec. 2. The sheriff, or friend of the court in alimony or nonsupport cases, shall collect the wages or salary of an employed prisoner, or require him to turn over his wages or salary in full when received. The officer shall deposit the same in a trust checking account and keep a ledger showing the status of the account of each prisoner. The wages or salary are not subject to garnishment in the hands of the employer or the officer during the prisoner's term.

History: 1962, Act 60, Eff. Mar. 28, 1963.